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SAVING OUR NEIGHBORHOODS FROM FORECLOSURES

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT

OF THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

ON

EXAMINING THE EFFECTS OF FORECLOSURES AND SOLUTIONS TO THEM, THEIR EFFECTS ON NEW JERSEY NEIGHBORHOODS, SUCH AS DECLINES IN HOME VALUES, CRIME, AND DISPLACED FAMILIES; AND DISCUSSING STEPS TAKEN TO HELP END THE FORECLOSURE CRISIS

FEBRUARY 10, 2012

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C O N T E N T S

FRIDAY, FEBRUARY 10, 2012

WITNESSES

SAVING OUR NEIGHBORHOODS FROM FORECLOSURES

FRIDAY, FEBRUARY 10, 2012

U.S. SENATE,
SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND COMMUNITY DEVELOPMENT,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Subcommittee met at 11:01 a.m. at Black United Fund Health and Human Services, 403 West Seventh Street, Plainfield, New Jersey, Hon. Robert Menendez, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF CHAIRMAN ROBERT MENENDEZ

Senator MENENDEZ. Good morning. As Chairman of the Senate Banking Subcommittee on Housing, Transportation, and Community Development, let me call this Congressional field hearing to order.

Let me first thank the Black United Fund for hosting this field hearing, an incredible organization that has assisted over 700 community-based organizations, and their mission touched upon 16 of the 21 county Health and Human Services agencies that have received their support and whose goal is to enable individuals to help themselves create a better sense of self-worth and a better self-identity and ultimately self-sufficiency. We thank them for hosting us.

I just had the privilege of meeting over 100 of the young students who are taught here every day in the preschool program and they had a lot to say. They were a happy group, so started my day exceptionally well.

It is good to be home in New Jersey to welcome all of you to this discussion on how we save our neighborhoods from the problems of foreclosure, how we can help homeowners deal with foreclosure and communities deal with the blight of foreclosed properties.

Let me begin by looking back to a time when I was growing up in New Jersey. It was and still is a place where people work hard to build a better life for themselves and their families. The economy was expanding. We enjoyed a vibrant, prosperous manufacturing base that provided jobs that turned into lifetime careers for millions of Americans. The middle class was thriving, and it was everyone's dream to own a home. And buying a home was a personal accomplishment, a family triumph. It was a time in America where Government and the economy supported a growing middle class, banks were more local, not global like they are today, a time when they had a stake in each mortgage in the community they served and they knew their customers personally.

Times have changed, and some say the old American dream no longer exists. But I think they are wrong. I believe that America's middle class spirit, that hope for a better life, is still alive in the hearts of every family here in Plainfield and across the country.

So today's hearing is about more than numbers and statistics, more than the fact that 1 of every 10 homes in Plainfield is in foreclosure. It is about values, about people and families and our communities and what we can do to help. It is about finding opportunities to mitigate the foreclosure crisis. But most of all, it is about hope, hope for Plainfield, for New Jersey, and for every American family and neighborhood that has been hit hard by the mortgage crisis and struggling to stay above water.

Having said that, today, we will be hearing from six witnesses on how to best alleviate the burden of foreclosures and how we can mitigate the impact of foreclosures on our neighborhoods. Today, I hope to hear not only how we can streamline the process and make it as fair and as painless as possible for homeowners, but how we can help communities like Plainfield deal with the vacant houses that exist, whether that be incentives for conversion to rental or, in some cases, where there are other resources for the community that would make sense.

Today, I would like to hear outside-the-box ideas on what creative solutions our witnesses may have and what the possibilities are. We have already made some inroads, but there is much more we can do.

As Chairman of the Subcommittee, I have held multiple hearings to find ways to get the housing market back on track and create jobs. We have investigated bank practices to hold them accountable, sought ways to expand programs to help struggling homeowners deal with an overly cumbersome and complicated process. I have worked to bring home millions of dollars to the Garden State for the construction of affordable housing units throughout the State and supported legislation to create a Homeowner Advocate to be a one-stop-shop for homeowners looking for help.

Most importantly, I have supported efforts to hold banks and the Government more accountable for their actions and to protect homeowners from predatory practices, lender indifference, and untimely and unreasonable demands that make a bad situation worse for families already struggling.

And looking forward, I have proposed my own comprehensive action plan that will address all aspects of the housing market, and I will also be working with President Obama to put his housing plan into action, both of which will help New Jersey families stay in their homes, and I hope our witnesses will touch on aspects of this plan in the course of their testimony today.

I also wanted to mention that the settlement between the State Attorney Generals and big banks came out yesterday, so this hearing is very timely. While the $26 billion settlement helps homeowners, it is a long way from healing the grievous wounds left by the crisis and deceptive mortgage practices. When I think about $700 billion nationwide underwater, $26 billion may be welcome, but it is not even 10 percent of that challenge at the end of the day. There is still more that can be done to help homeowners who were wronged by the foreclosure crisis and will also provide, I hope, greater stability to the housing market and improve the overall economy.

Specifically, we cannot address the basic foreclosure issues for families if we do not first eliminate arbitrary barriers imposed by lenders that prevent homeowners who are underwater from refinancing at a fair interest rate. That is one of the first things we need to do. And while we have eliminated many of the barriers already, more needs to be done and we look forward to working with the Administration to do just that, to make sure that all responsible homeowners who should be able to take advantage of our historically low interest rates but unfortunately are not allowed in many cases to do that. This was the subject of a hearing yesterday in Washington of the full Banking Committee and it is something I look forward to continuing to pursue.

I look forward to working with the President to help families here in Plainfield and across the Garden State by establishing a set of fair national foreclosure standards to ensure that no bank—no lender is allowed to foreclose on a home without following proper procedures and producing proper documentation. Nor should they be able to foreclose on a property without making every effort to modify mortgages so a family has a reasonable expectation of having the chance of staying in their home.

Homeowners should have the benefit of a single point of contact for loan modifications to ensure continuity and certainty in finding their way through what is inevitably, no matter how many safeguards we implement, an emotionally difficult process, and my office has dealt with this many times in our assistance to homeowners working with lenders on loan modifications, and very often that process moves from one person to another to another and creates an incredible challenge to that family trying to modify their loan.

I also believe there should be limits, reasonable limits on foreclosure fees and that there should be a fair appeals process for those denied loan modifications to ensure that families get a fair shake, not just a quick rejection.

Fraud and homeowner abuse through service errors is also a problem we must address. Miscommunications, illegal robo-signings, which have sometimes resulted in wrongful property loss, are simply unacceptable.

Because the process has proven to be so cumbersome, and many times so callous, I strongly support foreclosure counseling to help guide homeowners to their options to keep their homes or make a smooth transition to the next option. In fact, that is why I joined with others to send a request to Senate appropriators requesting a restoration of funding for HUD's Housing Counseling Program that was eliminated in the fiscal year 2011 budget to avert a Government shutdown, and while we did not get all of it back, we got most of it, and that is certainly an important outcome, because in my view, cutting housing counseling funding is a huge mistake when we have record numbers of foreclosures and we know that homeowners who get housing counseling advice are much more likely to get a modification and stay in their homes.

We also need to help neighborhoods recover from foreclosed properties, because the consequences are not just to the families, of course, in the first instance, who face this incredible challenge. But when you have a foreclosed property and that property remains vacant, mayors face the challenges of that reality, the attraction very often for it to become a challenge, a nuisance in the community. And when multiple properties are foreclosed, it devalues the values of other properties in the neighborhood and sends a spiral downwards in terms of property ratable basis. That is a challenge. So we have requested $215 million for the Neighborhood Reinvestment Corporation to rehabilitate and preserve existing buildings, and why I support that Neighborhood Stabilization Program to rehabilitate foreclosed homes.

Clearly, here in Plainfield and in every community, foreclosed properties are having challenging effects, not only for the families who have to move but for their neighbors. Sales of these properties at bargain basement prices depress the value of neighborhood homes, are often vandalized, become eyesores, and attract crime. This begs the question of how we can quickly and easily turn foreclosed homes into one option, being rental properties. I believe we also need to have a discussion about what other opportunities there exist.

Last, I am introducing today legislation that seeks to create another opportunity for families under shared appreciation mortgage modifications. We need to help homeowners who are underwater through no fault of their own but can be responsible borrowers. Because they owe more than the house may be worth, they are more likely to allow the property to go into foreclosure or walk away completely. They need help and hope for a solution that allows them to remain in their home.

That is why I have introduced the American Homeownership Preservation Act of 2012. Most banks still will not reduce the amount that homeowners owe on their loans, so I believe we need to use shared appreciation mortgages, which is a creative way to reduce mortgage debt that is both fair to the homeowner and the lender. Under the proposal, for homeowners who have lost their jobs or experienced a hardship, banks would be required to reduce homeowner mortgages to 95 percent of loan-to-value ratio over 3 years and immediately lower the homeowner's payments, provided the homeowner continues to make reduced payments. In exchange, investors or lenders would get a share of any appreciation in the home's value when the home is later sold or refinanced, equal in percentage to the amount of principal they reduced the home by in the first place. This approach provides hope for families who have seen the value of their home plummet, through no fault of their own, so that they can remain in their homes if they can still responsibly make payments.

And this is not some academic idea hatched in a laboratory. This modification has already been tested by private companies and it works. In fact, there is a homeowner here today who received this mortgage modification and is still in their home because of it. Mr. Igor Etienne would be more than happy to speak with any members of the press or anyone who wants to understand how it works in real practice. He is in the audience and we appreciate his willingness to speak to anyone at the conclusion of this hearing.

The Shared Appreciation Mortgage Modification Act of 2012 is only one tool needed among tools that I have been encouraging. All options should be on the table. I hope we will hear many more today, because doing nothing about foreclosed properties, doing nothing to help communities like Plainfield through this crisis is simply not an option. It is unacceptable for me for homeowners to wait for years for the market to hit bottom. Some suggest that it has. But it seems to me that we just cannot wait for the market forces to take place. We need and can do much more.

So let me introduce our witnesses for today. Let me welcome Assemblyman Jerry Green, who is currently serving his 11th term in the New Jersey Assembly. As Speaker Pro Tempore, Assemblyman Green serves the 22nd Legislative District, which includes this great community. He is also Chairman of the Assembly Housing and Local Government Committee and we look forward to his testimony and his initiatives.

Let me welcome our host Mayor, Sharon Robinson-Briggs, the Mayor of Plainfield, who has represented the city in so many capacities and is the past President of the Board of Education here in Plainfield and the past President of the Plainfield Branch of the NAACP. Thank you, Mayor, for hosting us here.

Krishna Garlic is the Chief Executive Officer of Brand New Day, a nonprofit Community Development Corporation which provides programs and services for individuals, families, renters, homeowners, micro-businesses, and supporters of low-to-moderate income population in New Jersey. We look forward to her insights.

Phyllis Salowe-Kaye is the Executive Director of New Jersey Citizen Action. She leads the largest HUD-certified counseling agency in New Jersey that is helping thousands of borrowers to navigate the complexities of saving their homes, and we appreciate Phyllis's testimony at my last field hearing in Hackensack last year.

And Mr. Wayne Meyer, who is the President of New Jersey Community Capital, a nonprofit community development institution that provides innovative loans, grants, and equity to organizations that support housing and sustainable community development ventures that increase jobs, improve education, and strengthen neighborhoods.

And finally, let me welcome Professor Alan Mallach, who is a Senior Fellow at the Brookings Institution and Board Member Emeritus of Housing and Community Development Network of New Jersey. He is a widely known and respected advocate, speaker, and writer on housing and urban policy issues.

So my thanks on behalf of the Committee to all of you. We are—as you may see, we have a Senate recording of the testimony that is taking place. There are Senate Banking Committee staff here. So your testimonies will be fully included in the record. We ask you to summarize them in about 5 minutes so we can have some conversation and the testimony will get wide dissemination among Members of the full Banking Committee, as well.

So with that, Assemblyman Green, I know you have a schedule that may bring you to Trenton, so we are going to ask you to start off.

STATEMENT OF JERRY GREEN, ASSEMBLYMAN AND SPEAKER PRO TEMPORE, NEW JERSEY GENERAL ASSEMBLY

Mr. GREEN. Well, first of all, Senator, I want to——

Senator MENENDEZ. If you would use the microphone for the Senate stenographer.

Mr. GREEN. First of all, I want to congratulate you for bringing this meeting together. It is long overdue. Some of the topics that you have touched on here in the State of New Jersey, as Chairman of Housing and Local Government, we have begun to move in that direction. Currently, we have some proposals together with the Senate, working with Senator Lesniak that deal with foreclosure and we are hoping and confident that the Governor and his office will work with us. So today's meeting and your approach is something that publicly I want to acknowledge is well overdue and is needed.

What I have found last year when I dealt with some of these housing issues was a lack of communication with Washington, Trenton, and even local, and we have tightened that up. I had the ability as chairman when we were talking about affordable housing to go around the whole State and hold such meetings, and we realize that there is a shortage of housing, but also there is a shortage of dollars. And there are municipalities in the State that have money already set aside for some of the things that you and I are talking about.

So what we plan on accomplishing with this new bill is that we would like to work with the Governor to tie in foreclosure. We feel it is important that we keep a family in a home, because once they lose their home, they become not only a problem to the community, but the home itself becomes a problem, and this is workable.

Our policies in the past dealing with housing are not working. For the last 25 years, we have not seen anything accomplished. We are not talking about a lot of new homes. We are talking about affordable housing. Because here in my district, even in the city of Plainfield, we have enough housing. It is the question, how do we keep people in the housing?

So it is important as I listen to your remarks that we include the banking industry, we include Government, and we include the community, because at the end of the day, the bottom line is that these people have to have someplace to live.

So I do not want to get too far into what I consider negotiation that is going on with the front office with foreclosure, but I am confident within the next couple of weeks the Senator and I will make an announcement, and I am so happy to be able to go back and report to the Committee that you are a step ahead of us, and we are just so happy that we have a Senator that really understands these issues, because these are human issues. We are not talking any longer about poor people. We are talking about middle-income people who have lost their jobs and cannot afford the mortgage that basically they were put into.

So we are not looking to hurt the bank. We are not looking for Government to bail out. But I am hoping that this year, with the budget, we do not have to have that as a line item. What we need to do is make sure that dollars that are set aside for housing go toward the project that you are talking about this afternoon.

So I am looking forward to questions from the community and I look forward to this dialogue with you because it is obvious that you are going to be a very important part of how New Jersey moves their housing industry.

You can look at some of our urban communities, like Camden and others, and it is obvious their problems are a lot more serious. But as I had staff give me the numbers here in Plainfield, it is workable. It is doable. What I see was 5, 6 years ago, people put in positions that even the realtors and the bank realized these people could not survive. We cannot allow that to happen in the future. So we have to have policies set in place that banks cannot take advantage of a community, because at the end of the day, what happens is what has happened in Plainfield. Right now, the bank owns about 125 homes. Right now, we have over 500 homes on the books that could go either way. Again, this cuts across the whole particular city. It is not just one part of the city anymore.

But also, I would like for you to make sure in your approach to this whole issue that we do not have people take advantage of the system. Whatever dollars come in, we want to make sure those dollars go directly to the families to help them bring down their mortgages, give them another life, not have loose policies like it has been in the past where gimmicks are put together and at the end of the day the public gets hurt and we are right back where we started from.

So again, I am happy to be here with you today and I am confident over the years you and I will work closely together. And I am confident before Ray and I roll out our foreclosure bill, that we would love to sit down with you to make sure we are on the same page. Thank you.

Senator MENENDEZ. Thank you.

Mayor Briggs.

STATEMENT OF SHARON ROBINSON-BRIGGS, MAYOR, PLAINFIELD, NEW JERSEY

Ms. ROBINSON-BRIGGS. Good morning to everyone and welcome to the city of Plainfield. I am Sharon Robinson-Briggs. To Senator Menendez and Assemblyman Green as well as all of the dignitaries here on the panel, as well as to Ms. Sondra Clark who welcomed us here to this facility and to—I see members of the Plainfield Housing Authority, HUD, Faith, Bricks and Mortar, and the school district and One Stop and many of our partners, Union County, representatives here—I want to put on the record very briefly, Senator Menendez, that, first of all, Senator Menendez is not a stranger here to the city of Plainfield. He has come here often to discuss many pertinent issues and ideas affecting not just the people in Plainfield, but throughout the entire State of New Jersey, the 566 municipalities. He even came to my church with my pastor who is here today, Reverend Tracy Hill Brown from the Fellowship Ministries. You may remember her, as well, Senator Menendez.

Senator MENENDEZ. I cannot forget her, Mayor.

Ms. ROBINSON-BRIGGS. I know. Me, either.

Senator MENENDEZ. She gave me a blessing from the pulpit, so——

Ms. ROBINSON-BRIGGS. Oh, excellent. She does that.

Senator MENENDEZ.——and we wish her well.

Ms. ROBINSON-BRIGGS. Thank you so very much.

And I will not forget, to all the elected and appointed officials who are here today.

I am Sharon Robinson-Briggs. I am here representing and wearing different hats. I am Mayor of the city of Plainfield. I am also here as a member of the Plainfield Area NAACP, also, under the leadership of Peter Briggs, and also here as an Executive Member of the New Jersey State League of Municipalities. Mayor Ondish is the President and Bill Dresser was the Executive Director. Also, as a member of the New Jersey Urban Mayors Association under Mayor Wayne Smith, who is the President.

But finally and maybe in this particular case maybe the most important reason why I am here today, I am sitting here as a homeowner in the city of Plainfield, County of Union, State of New Jersey, 216 Pemberton Avenue, for the record. As a homeowner, I have to say that it has been pretty tough, pretty, pretty tough to maintain a mortgage on property these days.

Now, I think one of the biggest problems is that, or the tie-in to the foreclosure problem is that it is directly related to employment. You know, we have many people, not just in Plainfield but throughout the State, who have either been laid off, fired, and/or have been asked to take a reduced salary. Now, a reduced salary is one thing, but it does not equate to what is going on in the household. The expenses are not being reduced, as we all know. So, therefore, there is this unequal situation that is going on. I can tell you that even within my own household, my husband, who was making one salary which was wonderful, has been greatly decreased and I think that that is something that has happened across the board. And it is not due to anything that employees or residents have done. It is just the economy.

For instance, in the city of Plainfield, we lost in the last few years, our biggest employer, Muhlenberg Hospital, that went down from a full-service facility to a satellite facility, and we had 1,100 employees at Muhlenberg and we do not have that kind of staff there. Many of those individuals resided here in the city of Plainfield or in Union County, and, of course, without a job, it is pretty tough to make the mortgage demands. So, again, I think that the foreclosure rate is really, really tied to employment and this economy.

I would like to speak for a moment with regard to—and I thank banking officials for being here—because I think that we need to be able to work closely together, municipalities and banking officials, because there is the modification process, but it really takes too long for homeowners to go through that process. Oftentimes, I have been meeting with families who say that it has been 4, 5, 6, 7, 8 months to get a final decision as to whether or not they have qualified for the modification.

I would like to throw out to the banking world, and I know that they are proactive and they want to help people stay in their homes and that is all of our option at this point. That is what we all would like to see happen. But I would like to ask if banking officials can please take this information, as well as our legislators, back to their bodies and discuss the possibility of forgiveness of monies, back monies that are owed on loans, maybe up to 3 months, or either put that on the tail end of a loan and allow people to be able to start over, because assessing extra fines and things of that nature is not helpful to homeowners and I am sure that banks do not really want to be landlords and/or property owners.

We have several properties in the city of Plainfield that have been foreclosed upon. Unfortunately, we do not have any way to help the folks who have been displaced because there is not money available to them. People are kind of camping in with other family members and doing things of that nature.

But in Plainfield, I am going to tell you briefly what we have done to try to assist homeowners is to work with organizations and facilities such as the Housing Authority, such as HUD, such as Faith, Bricks and Mortar and other certified counseling facilities so that they can educate our community, and we have been having housing seminars. So we are going to continue in that vein.

But thank you again, Senator Menendez, for bringing this issue to the forefront because it is very vital to the community of Plainfield.

Senator MENENDEZ. Thank you, Mayor.

Ms. Garlic.

STATEMENT OF KRISHNA GARLIC, CHIEF EXECUTIVE OFFICER, BRAND NEW DAY

Ms. GARLIC. Good afternoon. I am grateful that the Senator has made this venue available to call attention to the unfortunate situation that families are still losing their homes and many are sitting in limbo for years not knowing their fate.

Take, for example, Regina, who came to Brand New Day for help with her mortgage. She had heard about the HAMP program and her mortgage was with one of the larger banking institutions. Her mortgage payment was $1,200 a month and she was current until she lost her job unexpectedly. She was unemployed for 3 months before finding employment significantly less than her previous job. Unemployment and under-employment are the number one factors facing customers who come into our office today. Brand New Day worked with Regina to submit her modification request.

After 90 days, she was approved for a trial modification, and the next 120 days were spent resubmitting documents, numerous phone calls, and lots of tears as she waited for her permanent modification. Six months of waiting to find out the fate of her home ownership status and the memories of sacrifices she and her husband had made to purchase a home for their family were all flooding her with emotions. Thoughts of where she and her family would live if the loan was not approved, where she and her—where her children would go to school. Where would they play? Where would they raise their children? After all, she and her husband had children in this house, this neighborhood, these neighbors.

Another 30 days went by before she was scheduled to meet with her counselor. It has now been over 8 months and still no resolution. She was saddened to hear during her appointment that the request had been denied. The counselor advised her not to give up, because in New Jersey, we have other programs. The State's mediation program would give her an opportunity to speak directly to the bank and make her case. Together with the counselor, the mediation application was prepared and submitted. More waiting. Regina's mediation date was scheduled for 2 months out, but at least she could sleep sound at night knowing that the sheriff would not show up at the door to remove her family while waiting for her mediation date.

A week before the mediation date, Brand New Day worked with her to update all of her paperwork and send it in to the bank in preparation for the mediation process. So Regina found herself frustrated and confused when the lender's attorney reported to the mediation unprepared and requesting that the process be continued.

On many occasions, cases at mediation are continued two and three times, leaving homeowners in their houses but uneasy, insecure, and full of anxiety. In addition, while decisions are prolonged, fees and interest continue to accrue, making negotiations with lenders even more difficult. It is our recommendation that fees and interest be suspended during the foreclosure modification process. In addition, the process would be simplified and more effective if counselors had direct access to the person who has the power to negotiate and make the decision regarding the modification.

Regina finally, after an unsuccessful mediation process, said that she would pursue a short-sell and put her house on the market. At that point, she felt hopeless and believed that this was her only option. The home stayed on the market for many months with no offer. There were so many homes on the market that at that time and in her neighborhood, there was extremely low demand. She finally got an offer much less than what she owed to the bank, in fact, $70,000 less. The offer was submitted to the bank and Regina found herself yet again playing the waiting game. She waited for months with no response from the bank to approve the short sale.

The housing counselor at Brand New Day told Regina not to get frustrated. There is a program called Cash For Keys that we can negotiate on your behalf if you decide that you want to move out. Regina was desperate. She and her housing counselor made arrangements for the exchange. Unfortunately, the cash arrived many months after she had moved and the funds could not be used to help with her relocation expenses. Banks should be required to give the cash within 30 days of the homeowner vacating the property.

Regina and her family are now renting an apartment in another town and another community. The children are now attending school at a new school and have made new friends. There is a greater distance between where she lives and where she works. The family would have been better served if they could have remained in their house as tenants. Banks should be encouraged to allow homeowners to lease back the properties after foreclosure so they can maintain stability for their family and avoid vacancy in our neighborhoods.

In closing, Regina's story can be multiplied by thousands across the State and millions across the country. Many of the current Federal and State programs could be more useful if guidelines were less restrictive. There are so many people that need help and their situations are so different that we spend numerous hours as counselors trying to determine who qualifies for what program and trying to qualify the unqualifiable.

In addition, our counselors are an invaluable part of the process in aiding a family from the first late payment through resolution, which could mean a loan modification but also could be transitioning into a new living situation. Funding for housing counselors has been significantly cut in the State and Federal budgets, and as demand continues and in many cases increases, we need dollars to pay salaries and related costs. Banks should be responsible to assist with the cost of healing our communities.

So I want to thank you for your attention to this important matter and ask the Senator that you continue to have conversations and dialogue with housing counseling agencies as we try to help families in New Jersey. Thank you.

Senator MENENDEZ. Thank you very much.

Mr. Meyer.

STATEMENT OF WAYNE T. MEYER, PRESIDENT, NEW JERSEY COMMUNITY CAPITAL

Mr. MEYER. Senator Menendez, good morning, and thank you for the opportunity to speak with you today about New Jersey Community Capital and the role we play in saving New Jersey's neighborhoods from foreclosure. More importantly, thank you for your tireless efforts to advance a comprehensive housing plan designed to keep people in their homes, to fill vacant homes, and to save our neighborhoods.

Senator, you mentioned at the beginning that the central part of New Jersey Community Capital's work is to try to create comprehensive sustainable neighborhoods through housing, education, early child care, business development, and the like. But what is clear to us in our work throughout the State is that without a healthy housing market, it is almost impossible to create those neighborhoods of choice. And the foreclosure crisis, as enormous as it is, places pressure on the abilities of neighborhoods to become good places to live, work, and raise a family.

This crisis really requires interventions and strategies across the mega-community approach, within the Government, philanthropic, private, nonprofit sector. And I would like to talk today a little bit about some of the programs we are using at New Jersey Community Capital that are really designed to help, along with your housing work plan, Senator, keep people in their homes, prevent foreclosure, and save neighborhoods.

The first is a financing program. As a Statewide CDFI, we have seen the lack of financing to groups around the State as a real barrier for them to acquire and redevelop properties, and to put them back into productive reuse. And so vacant homes, which drain the life out of neighborhoods at a time when there is a need for affordable housing, remain vacant.

At New Jersey Community Capital we are implementing a new creative fund. We call it the Neighborhood Prosperity Fund, which is designed to lend to groups around the State who can meaningfully acquire properties, redevelop them, and put them back into productive reuse. And this is a problem that has been going on for years, because a lot of mainstream financial institutions have really stopped directly lending to groups that have real strategies to acquire and redevelop properties.

Another area where it has been very difficult, because it is so difficult to qualify for mortgage financing and there is such a demand for housing, is to provide financing to groups to rent out these houses. In New Jersey Community Capital, we have been trying to provide what we call mini-permanent rental financing. Again, there is demand for affordable housing but a lack of capital to fill houses, and this financing is a really important component of the work. Financing is key, clearly. It continues to be an issue.

The second program is around the acquisition of properties on a meaningful scale. It is clear to us that the one-off property acquisition is not enough to really save neighborhoods. Not only is it not enough, we cannot rely on Government subsidy as the sole source to rebuild neighborhoods. So one of the initiatives that we have developed in New Jersey Community Capital is to establish a subsidiary called Community Asset Preservation Corporation which is designed to purchase in bulk both nonperforming mortgages and REO properties and then work with various groups, both community development groups and mission-based for-profit groups, to try to keep people in their homes through modifications of mortgages, trying to stabilize tenant situations. We really feel that this is a promising aspect of the work.

One of the difficulties and challenges that we have had, and we are starting to make more progress on it, is getting the financial institutions to deal with us on a meaningful basis to acquire properties and to establish rational values for these properties. We really believe that early intervention is so important, and if the financial institutions were more willing to work with us, we would be able to gain control and access to these properties more quickly.

And finally, Senator, we are working on a program with our State housing mortgage finance agency to use some of the Hardest Hit Funds. We are using some Hardest Hit Funds that were provided by U.S. Treasury. And the idea behind this program is precisely part of your work plan about helping underwater home buyers and keeping people in the homes. Every week in this country, every single week, billions of dollars of mortgages are traded, including here in New Jersey. And so we want to create a fund that is designed to acquire owner-occupied mortgages in targeted neighborhoods and then begin a process of working with the individual homeowners, like with our counselors like Krishna and Phyllis, to redevelop individual program plans so that we can meaningfully write down these mortgages to a point where they are consistent with the values of the house and with the borrower's income.

We believe that with this program, we could probably save 2,000 homeowners over the next 6 years. So we are looking forward to continuing to develop that program and implement it in 2012.

Senator, again, thank you for this opportunity here today to speak with you. It is critical that we save our neighborhoods from the detrimental impact of foreclosures. I believe that we can make more of a difference, but it is going to require both a financial and real estate capacity at a greater scale than has ever existed, and it is also going to require a major shift in thinking and behavior by all of us to really implement these initiatives. So thank you again.

Senator MENENDEZ. Thank you for the insights.

Ms. Salowe-Kaye.

STATEMENT OF PHYLLIS SALOWE-KAYE, EXECUTIVE DIRECTOR, NEW JERSEY CITIZEN ACTION, AND FORMER MEMBER, CONSUMER ADVISORY COUNCIL, FEDERAL RESERVE BOARD OF GOVERNORS

Ms. SALOWE-KAYE. I would like to thank Senator Menendez for bringing Congress to Plainfield, New Jersey, today. I have been the Executive Director of New Jersey Citizen Action for the past 25 years and I served as a board member of the Federal Reserve's Community Advisory Council for 3 years.

New Jersey Citizen Action is the State's largest HUD-certified housing and foreclosure counseling agency and we are a leader in innovative projects and programs that benefit New Jersey's families, individuals, and seniors, and the kinds of things that Krishna talked about before, we see those cases in our seven offices throughout the State, including the one that is located right here in Plainfield, New Jersey.

Keeping families in their homes when reasonable loan modifications are possible and the reform of the broken loan servicing industry should be the number one priority for Congress. Along with that, we need to be figuring out a way, and Wayne talked a little bit about it, to preserve already existing housing that has either become vacant or has the possibility of becoming vacant. We need to find ways to keep folks in those homes so that we can preserve our neighborhoods in New Jersey.

Policy makers need to apply strong mandatory standards for loan modifications. It would go a long way for the uncertainty that counselors face when the result of a modification depends on the person that they are talking to on the phone and the mood they are in that day.

There must also be an end to the loan servicing abuses and poor business practices that contribute to unnecessary foreclosures. Do not be fooled by the AG announcement that was announced yesterday, and announced as probably the best thing since sliced bread. The devil is in the details. The programs have not been set up from that. The implementation of those programs has not been determined. And finally, the enforcement is being left to the lenders, to the banks. It is like the fox is guarding the chicken coop. So we really need to examine that and not rest on our laurels that billions of dollars are targeted to help a very, very small percentage of families and no one is going to jail right now.

Lowering and reducing principals is also an essential part of keeping folks in their homes, and there must be a way to mandate that these principals be written down so that homes can remain affordable and the mortgages can be sustainable. Senator Menendez's program, his Shared Mortgage Appreciation Modification Act, is an example of a program that would work, should be supported, and it should be passed quickly by Congress. Acume Bank is a national financial institution that has been doing this for many years. They have 8,000 foreclosed loans in New Jersey and they found out a way to be profitable and do mortgage reductions. So we need to make sure that that happens and we need to all get behind this bill and Congress needs to pass it very quickly.

Treasury's Hardest Hit Fund has some excellent State and local programs. New Jersey's Homekeeper Program, which provides direct mortgage assistance to folks who are unemployed or under-employed, really needs to be expanded and marketed widely. Congress needs to support large-scale models like the Resolution Fund that Wayne discussed by allowing organizations themselves to apply for these Hardest Hit Funds or other TARP types of dollars instead of just permitting the housing and mortgage finance agencies to access these funds. And as long as the Hardest Hit Funds are being recycled, as in the Mortgage Resolution Fund, Congress should not have a sunset on these funds. Additionally, incentives need to be set for servicers and banks to ally themselves with these kinds of nonprofits and the same should be provided in bulk REO programs.

Finally, HUD certified counseling agencies need to be funded to capacity. Every single program that has been discussed here today requires a counselor for a home buyer to navigate this process, and to have cut these funds is disgusting and we all have to get behind this and make sure that funds are available to properly counsel every single person who is facing foreclosure in New Jersey. Thank you.

Senator MENENDEZ. Thank you very much.

Professor Mallach.

STATEMENT OF ALAN MALLACH, NON-RESIDENT SENIOR FELLOW, BROOKINGS INSTITUTION

Mr. MALLACH. Thank you, Senator, and I am delighted to be here.

I would like to start by just seconding what Phyllis said. The settlement may help, but again, the devil is in the details. But I think legislation such as the bill that you have introduced on shared equity mortgage modifications could make far more difference in the long run that the settlement that was announced yesterday, which could help but, again, is far from a solution.

So I would like to talk very quickly about four things that I think are really critical. First, and I will just second what people have said, we need to reduce the number of homes that go into foreclosure. Until that happens, we are not going to be able to stabilize our neighborhoods. We are not going to be able to stabilize our housing market. And we are not going to be able to help the people who need that help. And I think the Federal Government has a critical role in this area. We need legislation to address the issue of principal reduction, to facilitate short-sales and deeds in lieu and provide alternatives to foreclosure.

And in that light, I think one of the ironies of this huge situation is that Federal agencies control over half of the mortgages in this country and the mortgages that are in trouble, and yet consistently, FHA, Fannie, Freddie, the Federal Housing Finance Agency have been more a part of the problem than they have been a part of the solution, and I think this is something where if the Administration is unable to bring these agencies into the tent, as it were, I think Congress should look at what actions it can take to change the ground rules under which these agencies operate so that they can, indeed, be part of the solution. Notably, they are not part of the settlement that was approved yesterday.

Second, people have to be able to stay in their homes. When homes become vacant, especially in inner-city areas, they quickly become uninhabitable. I think there is—Congress enacted the Protecting Tenants in Foreclosure Act a little more than 2 years ago. That was critically important, but it needs teeth.

Along those lines, I would second, I think it was—I forget who among this group said it—a responsible homeowner who is in the foreclosure process but has maintained their home should have the right to stay in that house after foreclosure as a tenant unless there is a buyer who actually wants to move in and occupy that house. That is a win-win for the family, for the lender, even though they do not seem to appreciate it, and above all, for the neighborhood. There is a bill that has been in Congress, it was introduced by Senators Grijalva and Kaptur—Congress members Grijalva and Kaptur, I am sorry—and it has not gone anywhere, but I think it really should be addressed.

Third, ensure that properties are properly maintained, both during the foreclosure and after. New Jersey is the only State in the country that has a State law that puts the clear obligation on the lender that has initiated foreclosure to maintain the property during the foreclosure process. There are a number of cities that have done it elsewhere under their home rule powers, but I think this is something, again, Congress could look at, making it very clear that lenders that initiate foreclosure have the legal obligation to maintain those properties if the owners are no longer available or accessible.

And second, throughout this country, particularly in inner-city areas, lenders initiate foreclosures and do not follow up or drag it out. In many States, in many cities, lenders, literally, they start the foreclosure, they hope to pick up some money from the borrower at the last minute, and then they walk away and never perfect the foreclosure. We need legislation that is essentially a "use it or lose it" bill. If a lender simply starts the foreclosure but does not pursue it responsibly in a timely fashion, the foreclosure should be voided and, in some fashion, either the owner should be allowed to stay as the owner or the responsibility for foreclosing should go to a nonprofit or a public agency that can do it responsibly and get that property out of the limbo that it is sitting.

Then, finally, we need to put more properties back to productive use and make sure there are ways for families to buy houses, that there is access to mortgage funds. This, of course, goes to a huge issue that Congress is dealing with, is what is the future of the American mortgage industry going to look like. Are we going to have a situation in this country going forward where responsible home buyers of all income groups will be able to get mortgages, or are we going to have a situation where mortgages, unreasonable terms with unreasonable downpayments, are simply no longer going to be available to people of low, moderate, and middle income.

And then finally, just above all, I think this is a crisis. I mean, I have spent a lot of time traveling around New Jersey and around the country, in cities, in urban areas. There are neighborhoods across this country that are falling apart, that are collapsing from foreclosures, market collapse, declining public services, the economy. If we do not do something and do something quickly to deal with these issues, one harvest of our inaction will be the collapse and abandonment and impoverishment of literally hundreds of inner-city neighborhoods and hundreds of thousands of lower-income families.

Thank you.

Senator MENENDEZ. Thank you very much. Thank you all for your testimony. There were a lot of great insights here and I want to follow up on several of them.

Assemblyman, you talked about—and I do not want to get into your negotiations—but what is the hope of your goal at the end of the day in terms of the legislation that you and Senator Lesniak are pursuing in broad terms? Do you think that the amount of monies that will be coming under the settlement to New Jersey can be a source for some of what you earlier said you wanted to accomplish?

Mr. GREEN. Senator, I think that would go a long way toward strengthening the pot. As you know, over the last 25 years and basically this last 2 years under Christie's administration, we all have agreed that housing policy in the State of New Jersey needs to be changed. Currently, I have a bill that has the support of all the people in the building industry, the nonprofits, in terms of how we can answer that. Unfortunately, the Governor has another idea. So I am hoping that maybe we can meet each other halfway rather than have the court tell us what to do.

Meanwhile, in this last 2 years, the crisis of foreclosure has come up, and what we are trying to put together, without getting too far into the negotiations that are going on, is that some of these dollars that are actually sitting in suburban communities that can be used, not for affordable housing now, for foreclosure, and some of the other dollars that are generated through the ability of builders and other entities bringing money to the State, we take that money and use that for foreclosure.

Right now, Senator, foreclosure is at the front and the bottom line is that we cannot continuously go back to Washington because you are doing the best you can. We cannot go back to the taxpayers. So any dollars that we can generate that can go toward helping a family, helping a bank, we need to make that our top rod.

There are going to be people in the building industry who we would like to put back to work. We are going to have people in the community that feel we need to be building more units. But you need to deal with your current crisis, and that is the crisis that you are talking about today.

Senator MENENDEZ. And in that respect, Ms. Salowe-Kaye mentioned the New Jersey Homekeeper Program, which is based on Federal dollars. Has the State committee had an opportunity to have any hearings on that yet?

Mr. GREEN. No, we have not. The hearings that I held last year, Senator, were basically dealing with affordable housing.

Senator MENENDEZ. I see.

Mr. GREEN. We are hoping that the different groups that we have met with without having hearings, including groups of her sort, you know, my House, the Senate, has reached out for them. So in the past, I was able to reach out for everyone when I was moving my bill, but unfortunately, it did not happen with the front office. But the question you are asking me is that we are reaching out now before we finalize this so everybody can be on the same page.

Senator MENENDEZ. Ms. Salowe-Kaye, I want to ask you about that program because I am a little disappointed that, so far, only 54 homeowners——

Ms. SALOWE-KAYE. A slow start. I think as a—well, it was even less last year, so we are better now than we were last year. As a result of Krishna's counselors, my counseling staff interacting with the Housing and Mortgage Finance Agency, they have actually changed some of the requirements of that program in order to be able to expand the number of people that qualify for it. Fifty-four is not a good number. There are many, many more applications that are in. Folks need—the way it works is homeowners have to apply directly online at HMFA's Web site into a portal and then they eventually get assigned to one of our agencies or another. There are other certified agencies here.

There is a lot of time there, but a bigger problem is the actual marketing of the program. It was announced a couple of years ago as we have got $48,000 for 2 years if you lost your job. This was before the program was even set up. Now the program is set up. There are requirements. Everybody does not qualify. But there really needs to be aggressive marketing and outreach on that program.

The counseling agencies are being inundated by people who have applied and then get sent to us. It is what happens after that when we submit it, which takes a long time, and how many counselors there are to put through all the people that should qualify. We do not market the program, because if we marketed—I mean, we do not have to market the program because we do not have enough counselors to serve the people that are coming through now.

So they need to market it, provide counselors——

Senator MENENDEZ. So if we marketed it and had a lot more influx, how would we meet the challenge of——

Ms. SALOWE-KAYE. At least people would get into the portal and they would get into the queue and they would eventually get seen by one of our agencies that are up here and out there today. But a lot of people do not even know that it exists, and some people come to us first or your agency first and they think we can get them in. So the State really needs to market it. They need to increase the number.

I mean, we used to—in the old days—we now are all paid by a fee-for-service. For every one you put in, you get this, that, $100 here for an intake. We used to get capacity grants that actually paid us money for counselors. We have had to let—we do not get that anymore. All we get is a fee for everyone we put in at each part.

So unless somebody is—this money, the hope would be that some of this white bread money, you know—sliced bread money, not white bread money—you know, we are going to get a bunch in the State. There are a lot of places that it should go to and a lot of programs. But some of it has to be put into actual capacity building of the already existing counseling agencies, not setting up new agencies. We do not need any more new agencies. We have tried and true agencies that work. We need to be able to maintain our staff and deal with what is going to come. We have not peaked yet.

Senator MENENDEZ. I agree with you on that, which is why we fought the House provisions that eliminated all the funding and got a fair amount restored——

Ms. SALOWE-KAYE. But the State used to fund this, too.

Senator MENENDEZ.——but we need to do more.

I just want to make sure that, after having fought at a Federal level for the equivalent of what we call here the New Jersey Homekeeper Program——

Ms. SALOWE-KAYE. A great program.

Senator MENENDEZ.——that it is—I am glad to hear it works, if we can get it working——

Ms. SALOWE-KAYE. It works if we can move people through, and it works as a result of the counselors saying——

Senator MENENDEZ.——so something we need to pay attention on. Maybe the Assemblyman can help us with that, too.

Mr. GREEN. With all due respect, Senator, this last 2 years, as you well know, the Department of Community Affairs has changed hands. We now have a new Commissioner. Unfortunately, the other Commissioner was setting everything up and this is like starting all over again. I feel that you need to put some safeguards in when Federal dollars are sent to New Jersey that those dollars go directly to where they need to go, and number two, we have the staff to make sure the job is getting done because that is the problem we are running into, exactly what she is telling you today. It just seems like it is not on——

Senator MENENDEZ. Well, I know I wrote several letters to the New Jersey Housing and Mortgage Finance Agency saying you have the slowest start in the Nation, so we need to get it going, because we fight for Federal dollars and then we want to see it effectively used here on behalf of people. So I hear some of your suggestions and am going to follow up on it.

Ms. Garlic, I heard your story, which is, of course, of one of your clients, which is pretty telling of the challenges. It is your experience—she did not end up with a successful modification, but is it your experience that when you have a mortgage counselor with a client, they are more likely to succeed than not? Would that be true?

Ms. GARLIC. No, that would definitely be true, and I think kind of the message in this story is that, emotionally, going through foreclosure is a very stressful time for a homeowner. And so when the banks are taking a very long time to make a decision regarding a modification, and if you go through the 90-day trial and then the additional time to wait and then all of the programs that we have in place and the time it takes for people to be able to move through these programs, that there are a number of people who will end up with a successful modification, but then there are a number of people who have to look at alternatives. And the counseling agency does not walk away from a person if a loan modification is not what happens at the end of the day. We will stay with someone all the way through whatever their transition is.

And so when we talk about being fairly compensated for the work we do, you know, that is a part of the work that we are not compensated for. It is something—when you talk about being able to really support us from an organizational perspective and be able to support the folks that we are paying, we are there with the person through the entire crisis, whatever that means, and we need to be able to be supportive for that work.

Senator MENENDEZ. One of the suggestions you have that is of interest to me, that the counselor have direct access to the lender. Can a borrower not give you some power of attorney——

Ms. GARLIC. Yes——

Senator MENENDEZ.——or some authorization to do that——

Ms. GARLIC. Absolutely.

Senator MENENDEZ.——or is it still an impediment?

Ms. GARLIC. So, really, what the problem is is that the person who the counselor may be speaking to on the phone is not the person who is going to make the decision about whether that loan modification is approved or not. And so you spend your time, or the counselor spends their time on the phone, and I think Phyllis said, what mood is the person in today? How are you going to apply the guidelines today? And so really wanting to be able to have access to someone who is going to make the final decision.

Senator MENENDEZ. Phyllis.

Ms. SALOWE-KAYE. The thing about that is the counselors, at a counseling HUD agency, we all have the secret super-duper numbers that the person in the street does not have.

Ms. GARLIC. Right.

Ms. SALOWE-KAYE. So we actually get to what they consider to be the best—that the lender considers the best person, and we even have people above that if it is really outrageous. If it gets to Krishna or I as a problem, you know, we have somebody we could pick up the phone and call.

The problem is that on the final workout, it is the investors, because the loan has been sliced and diced so many ways that the secret super-duper person is not the person who signs off on the modification. They have to go back and talk to whoever loans the loan and we never see those people. The only time we have a connection is when we show up in a mediation in court and the lawyer is on the telephone. So we never even see their face.

Ms. GARLIC. Right.

Ms. SALOWE-KAYE. That is the process of the State mediation program. So it is not that the lender—I mean, we have got better numbers than somebody——

Senator MENENDEZ. Right.

Ms. SALOWE-KAYE.——who just calls those numbers that are in the newspaper today.

Senator MENENDEZ. So just for the record, when you are talking about mortgages that have been aggregated, then securitized, sold in the marketplace, and which then has all different investors in it, and hence the slice and dicing of that——

Ms. GARLIC. Right.

Ms. SALOWE-KAYE. Right, and that is the majority of the—I mean, those are the ones that are the hard ones.

Senator MENENDEZ. Is that, in part, why you talked about aligning servicer standards with—servicers' incentives with seeking remediation and——

Ms. SALOWE-KAYE. Yes, and actually, you know, the President has, just in his recent announcement, he talked about—and we have not seen the details of it yet—sort of mandating that those servicers, the Freddies and the Fannies and whoever else is owning these loans, that they comply and come to the table. But unless there are standards and that we all know it, we are spinning our wheels because, I mean, 8 months is a short amount of time for a client——

Ms. GARLIC. Mm-hmm.

Ms. SALOWE-KAYE.——and they all stay on our books——

Ms. GARLIC. Right.

Ms. SALOWE-KAYE.——and 936 days in New Jersey to go from filing of a foreclosure until the sheriff comes. That is about the average length. We are the longest in the country. And so we have to stay with that client——

Ms. GARLIC. That is right.

Ms. SALOWE-KAYE.——for 936 days, unless they leave and we cannot find them.

Senator MENENDEZ. Mayor, I know you want to say something. I also want you to, while you are making your comment, I want to ask you a question as a prelude to going on to Mr. Meyer, and that is give us a real life consequence of multiple foreclosures in a community. What are your challenges as Mayor?

Ms. ROBINSON-BRIGGS. Thank you, and that is sort of where I was headed, Senator. First, thank you for your bill. I also wanted to acknowledge something that one of the panelists said in reference to money needing for counseling. That is an absolute true statement because people need to be apprised of their rights, they need to understand what the process is, if they are in foreclosure and going through foreclosure.

To your question, Senator, I can tell you that foreclosures not only affect the household or the homeowners who are suffering through their foreclosure, it also affects their neighbors, because now once that property is foreclosed on, their property more than likely is boarded up and in a neighborhood next to houses that are not foreclosed upon. But if those families in that block that they have a foreclosed property there, if they want to sell their property, their value has been diminished and so, therefore, they are probably on the bad side of a loan. So they are trying to sell their property and the value has gone down and the amount of money that they would need to satisfy their loan is not going to be available to them because of this foreclosed property right in their block.

And then, of course, on a municipality level, if you have foreclosures in any municipality, that brings down your tax rateables and it also brings down many of your property values in the city or any city throughout the State of New Jersey.

So it has been a real downfall. Foreclosures not just affect, again, the family that is going through it, but it affects everybody, whether you know it or not.

Senator MENENDEZ. Has it been your experience that a finalized foreclosed home, now with no family inside, does it stay vacant a long time?

Ms. Robinson-Briggs. Yes. We have many vacant properties in the community, the city of Plainfield, and that lends an opportunity for crime, for vagrancy. In fact, I think we did have a property in Plainfield that there was a fire for that very reason. And I did hear reference to the fact that when there is a foreclosure, that banks should maintain the properties, and I would hope that they, from this point forward, will be encouraged, please, Senator, to do so, because we have had properties that we basically have to put liens on and financial institutions are not upkeeping with now their properties. So we need them to do that so that our property values will be maintained at a certain level.

Senator MENENDEZ. Mr. Meyer, I wanted that as a prelude to some of your comments about acquisitions of property at scale. There have been some suggestions at some of our hearings that we look to create tranches of properties sold to potential investors with an understanding that they move into a rental prospect for a period of time. Is that something that, in your experience, you would find desirable? If so, how should that be structured? Do you have any ideas in that regard?

Mr. MEYER. Yes, Senator. Before I answer, if I could just build on the Mayor's question——

Senator MENENDEZ. Sure.

Mr. MEYER. Some of the neighborhoods where we have studied, once the property goes through full foreclosure, they normally sell at 60 percent of what an average median sales price would be in a lot of these areas, so the foreclosure has a really devastating effect in terms of pricing for a particular neighborhood.

Senator MENENDEZ. I guess anyone else in the neighborhood looking at that sales price could use it as comparables to file a tax appeal.

Mr. MEYER. That is one way to look, but it is still——

Senator MENENDEZ. Not that I want to create that movement, but it is a reality of a possibility.

Ms. ROBINSON-BRIGGS. Right.

Mr. MEYER. That is right. But to answer your question, Senator, yes, we believe that a bulk acquisition of REO properties for a rental program is a strategy that we should be actively pursuing, because again, we see a demand for housing. We see a demand for affordable housing, rental housing. But the reality is that we need to get control of these properties.

I will give you an example of one we are working on. We are in the process of acquiring roughly 40 mortgages from a major financial institution. They are all in targeted neighborhoods. They are nonperforming mortgages. Twenty of the people are still in their homes, owner occupied. The pricing on these mortgages are less than 20 cents on the dollar at this point in time. The banks will not write down the mortgages because of moral hazard issues, which does not make sense to me if they are willing to sell it to us for 20 cents on the dollar.

But the reality is, if we get control of these properties, we can not only work with the homeowners who are in there and write down their mortgages, because we would not have to worry about investors since we would be the owner of the mortgages. But also, it gives us an opportunity for early intervention, to be able to get control of these properties when they become vacant, to be able to develop some other strategy to fill vacant houses. But when you wait, as in New Jersey, 800 days to go through a foreclosure crisis, nothing good happens and time is the enemy. So that is why it is so vital to get these properties——

Senator MENENDEZ. Your answer gives me rise to two questions. It seems to me that, first of all, the biggest holder is, I think you mentioned, is the Federal Government and, therefore, all of us as taxpayers through Fannie and Freddie, about 50 percent of all mortgages.

Mr. MEYER. Right.

Senator MENENDEZ. And one of my challenges, and maybe, Professor, you want to talk about this or have a comment about it, is I have been pushing Freddie and Fannie to, in one case, allow refinancing to take place, because you are either going to preserve your corpus by foreclosure or refinancing. And it seems to me the point you just made, I do not quite understand if you are going to foreclose and then sell at 60 percent, why would you not readjust. Moral hazard is also for those who created the lending products and drove people to mortgages they should have never been. That is a moral hazard, too, in my view.

So the question is, should we not be also having the major institutions that are the backers of over 50 percent of all the mortgages in the country allow refinancing to take place as one element at the end of the day, of permitting a responsible borrower at present rates to be able to stay in their home and create a good foundation of a marketplace. Is that something that is desirable?

Mr. MALLACH. Absolutely. I would just like to add to Wayne's point in terms of bulk sales, that I think I am very comfortable if New Jersey Community Capital buys a pool of mortgages and is responsible for those houses. I am scared as to what might happen if Fannie and Freddie start doing bulk sales to people who have not been thoroughly vetted as responsible landlords and owners and are not absolutely locked into maintaining all their properties.

I mean, we have got a lot of history in this country already with bulk sales, of people buying distressed properties, triaging them, cherry picking them, walking away from thousands of properties, and ending up making neighborhoods worse. So I think the idea of bulk sales can work, but it can only work if it is done extraordinarily carefully to make sure that the properties get into the right hands on the right terms.

And along those lines, I think, to my mind—and again, sometimes I just wonder who is doing the thinking for some of these organizations. From a standpoint of long-term financial stability and liquidity, for Fannie and Freddie to reduce principal and refinance at reasonable levels makes more sense for their long-term balance sheets than to foreclose. It may not make more sense for their balance sheet in this year's budget, which seems to be the only thing that is on the table, but it makes far more sense, and again, from the standpoint of stabilizing the housing market, keeping people in their homes, stabilizing neighborhood property values and so forth, and it will end up having far more positive impact.

Senator MENENDEZ. That is one of my challenges with Mr. DeMarco, because his idea of conservatorship is, I think, outside of where we need to be. I am wondering if any of the panelists who may have read this—but it is pretty remarkable to me. NPR and ProPublica had a story that I pursued yesterday. Maybe the reason that they are not allowing refinancing to take place is because they have actually taken positions in the marketplace where they, in fact, are betting that their owners, their homeowners and their borrowers, are going to be stuck in the higher interest rates.

It boggles the imagination why you would make an investment decision that you can affect the outcome of and not want that decision to pay off. Why would you make a bet that you do not want to pay and, therefore, very well affect your policy decisions, which would, therefore, be to let us not allow them to refinance because I bet that they will be more likely to be in the higher interest rates than a refinance rate. Why would I not want my bet to pay off? Am I missing something there?

Mr. MALLACH. It is unbelievable. I would just add along similar lines that the lawsuit that DeMarco brought against the city of Chicago, which enacted an ordinance holding lenders liable to maintain properties during foreclosure, the lawsuit was brought saying that, in their judgment, Fannie and Freddie have no legal obligation to comply with local ordinances requiring them to take responsibilities for their properties.

Now, it is conceivable that he may be right on the law, that it is preempted by Federal law. But it is appalling from a policy standpoint that the Federal Government would take the position that they have no obligation to maintain the properties which they are legally responsible for.

Senator MENENDEZ. I agree. Let me go back to Mr. Meyer a moment, then I see the Assemblyman wants to say something. Going back to Professor Mallach's question, which I have raised, as well, in terms of putting tranches of properties together to get the REO moved and get people for affordable housing rental and also remove that element of the housing market so you might get some upward mobility, it is important that the conditions of how that is done, because working with organizations like yours or Brand New Day or Citizen Action, that brings a certain reality of community-based understanding of the properties involved. But if it is just done strictly on an investor basis without those connections, is that not a challenge?

Mr. MEYER. It very much is, Senator, and that is one of the things with the model that we have developed through the Community Asset Preservation Corporation, is to try to acquire these properties in bulk and then develop different exit strategies, as appropriate, and the primary one is to work with our community development partners and to work with municipalities, and in certain cases work with mission-based for-profits that we have vetted that we feel that they are aligned to the work that we have been able to do. And we have done that in some of the work that we have done before.

And the other part, Senator, which I think is really important and I cannot stress it enough, is that with dwindling public resources available, with housing production subsidies going down, it is vitally important that we figure out ways that we can gain positions in these properties to still be able to achieve our goals of decent housing and neighborhood stability. And by being able to purchase properties, in bulk, on a meaningful scale, in which you achieve a certain amount of discount, a certain level of price adjustment, it serves almost as an acquisition subsidy that allows you to develop these different exit strategies without the heavy use of Government subsidy.

So that is why we think it is an important opportunity, as this program is designed to do that, that it be taken into consideration and to work with organizations like New Jersey Community Capital, Brand New Day, New Jersey Citizen Action.

Senator MENENDEZ. Mm-hmm.

Mr. MEYER. If I can just add one other point to your point about DeMarco, I had heard the same thing, and when I was talking to somebody about it, they said, well, the Federal Housing Finance Agency, as the conservator of Fannie and Freddie, has to maximize value to the Government. And I found that to be astonishing that they would, in essence, bet against their own portfolio. But I think it speaks to the challenge of being able to engage with them and meaningfully write down programs.

The Homekeeper Program is a tremendous program for the unemployed and the under-employed, but the reality is that in a lot of these neighborhoods—a lot of them—50 or 60 percent of the houses are underwater, and the amount of their values are 140 percent of the mortgages. I mean, that is not close. So you need to write down these mortgages if we are going to have any chance to be able to do that.

So I think from a policy standpoint, I still believe that we have to come to that realization in a lot of these ways here if we are going to really start turning the corner on this problem.

Senator MENENDEZ. I agree that it is the role of the conservator to try to preserve as much of the Federal money that exists, but if you are going to, at the end of the day, by taking a view that refinancing is not an option, then you are going to end up with more foreclosures, and if they are going to sell it to you for 60 percent of original value, that is a dramatic drop in the conservator's portfolio, as well. Would it not be better to refinance, have a responsible borrower, keep, maybe even join, have the conservator join in shared appreciation mortgages maybe so that the Federal output is further preserved?

It seems to me that taking the view—and this is where I do not know if I am missing something—but taking the view that only—that conservatorship and preserving the largest corpus of the Federal investment can only come by either payment or foreclosure misses a tremendous opportunity to preserve——

Mr. MEYER. Senator, I totally agree with you.

Senator MENENDEZ. OK.

Mr. MEYER. I think you are so right about that. And I will give you a real life example here in New Jersey. We were working with one of the GSEs. We put an offer in to purchase 29 properties in a very specific neighborhood. We could not come to agreement with them on the final price and we ended up purchasing 10 of the 29. We said to them, listen, what is going to happen here is these properties are not going to move in any event. So a couple of months later, they dropped in price, back to the price where we had offered to them. As they start putting more houses on the inventory, they have to put them at a lower value because those houses dropped and the cycle continues.

So to me, sometimes some rational pricing where they can move properties to an organization, a re-use strategy, benefits them in the long run, because when the next houses they have to put on that particular market come out to play, there is at least some momentum or at least some intervention going on that can help stabilize the neighborhoods.

But it is crazy to me to hold property out and keep dropping prices when you could have sold them a couple of months earlier and still achieved the same price.

Senator MENENDEZ. You mentioned financing as a challenge. I know that one of the things that we did in the Small Business Act, although it is meant for different purposes, is I have a billion-dollar set-aside for full faith and credit of the United States for CDFIs. What would you envision the type of help necessary on the financing side, or what conditions would you need to see taking those tranches of property and having responsibly placed back in the marketplace——

Mr. MEYER. Senator, your work on that has been nothing short of outstanding. I really mean that. It is a game changer for CDFIs, that particular bill, and I can give you a couple of very clear examples of what we think we would do with that type of money.

The first is that it would give us an opportunity to develop some patient capital that we can use to acquire these properties in bulk and then put financing on them to rent them to people for a number of years, because there is a clear, clear gap in terms of our ability to do that. That is number one, and I think that that is a huge opportunity.

I think, second, with regard to working with, for example, the Mortgage Resolution Fund, as we acquire properties and we reset the mortgage, we have to find a permanent financing vehicle for them. I could very easily imagine how the CDFI Fund, the bond program, could serve as that alternative financing where we would actually acquire some of those mortgages until they become stabilized and have gone through modification periods and then find an exit strategy for them.

So those are just two examples, Senator, that I really believe would go a long way in terms of helping with this housing problem.

Senator MENENDEZ. Assemblyman, do you want to——

Mr. GREEN. Yes. I just want to follow up on that issue pertaining to putting packages together and allowing the financial institutions to gain control. I know during the course of my career in the last 30 years, I have been able to see how this hurts the community rather than help the community. So I would be against any financial institution packaging and being able to give lump sums of property for them to control. As we all know—well, I cannot say all of us remember in the 1980s when you were paying almost 17 percent for money. Well, that was a reason why you were paying 17 percent, because of the fact that the financial institutions were basically in control.

And I do not want them, Senator, to get back into that kind of control because I was blessed enough to be advisor to one of the banks here in Central Jersey, and within 10 years, they have gone from, we are not going to invest in urban communities, we do not see a future. Now, all at once, they want to do more than finance refrigerated cars. They want to finance in the community because they see a future.

And they used to use the word "landbanking." Now, I use the word "housebanking," because of the fact that with all of these different programs, with the ability for the Government to step in, it is going to come back. But I want it to come back in a way where organizations that are next to me are in control of it and not the banking institutions who basically control the market in terms of what the community basically can look like in terms of putting dollars in that community. Once you give that control to them, then it is like anything else. They make a fortune for 20 years, then we have a downsize like we had for the last 3 or 4 years.

So when we start talking about packaging housing together, then I am confident that I would support any nonprofit organization being in control of that. But to give this back to the banking industry, who I consider the moneymakers, it would be devastating. Their record so far has proven to me this is all about making money, even what is going on right now. This is all about a handful of bankers getting together and poor people being able to be used to the point that at the end of the day, your salary goes toward meeting your needs and paying a mortgage, and you cannot even pay that today.

So, to me, as far as I am concerned, I have no problem with nonprofits being in control over any type of packaging. But once we get to the financial institution, I am hoping that you will study that very hard to make sure that they do not control those dollars.

Senator MENENDEZ. Well, I appreciate your concern, and that is why I raised the question earlier when we were talking about, I think Professor Mallach raised the red flag and it is one that I have raised and I think Mr. Meyer has it on tack, that if we were to do tranches of properties with investors, it really has to have a connection at the end of the day with community-based entities who understand the community, know the nature of the market, know the nature of the demand for the housing, and can appropriately deal with it. So I think that will be a critical part of it.

I would like to just maybe finalize, Professor, on something you said which I would like to get your ideas for the record. There are those who suggest that we should eliminate Fannie and Freddie, have them dissolve and no longer have a Federal role. If that were the case—I have my own views on this, but I do not want to prejudice the record. So if that was the case, what do you believe would happen?

Mr. MALLACH. Well, what I believe would happen is if you look from a straight business standpoint at the low downpayment, long-term, fixed-rate mortgage, it does not make sense. No bank—no banking system that I am aware of in the world provides low downpayment, fixed-rate, long-term mortgages unless there is some form of Government or quasi-Government or some backup behind those mortgages to create a secondary market and secure their value.

I think if we do not have Fannie and Freddie or some kind of equivalent system, I think we will end up with a mortgage system that simply will not serve very large parts of our population because it will require much larger downpayments than many people, especially moderate-income home buyers, can afford. It will put a premium on interest rates if you want a term that is, say, longer than 10 or 15 years. And it will be almost entirely focused on adjustable interest rates because the idea of locking in a fixed interest rate for a long term, unless it is at an extremely high rate, will simply not be attractive to the lending industry.

So I think the notion that has been raised by some people that we can privatize the mortgage industry and that, ultimately, the private sector will come back and offer the same product without any need for Government intervention. It is a pipe dream, Senator.

Senator MENENDEZ. Well, I appreciate that, because I think Fannie and Freddie have to be reformed, but they do not have to be abolished.

Mr. MALLACH. Reformed big time.

Senator MENENDEZ. Yes. They followed the market and that is not something we needed them to do. But I think that without a Fannie or Freddie, I would have never, at the end of the day, bought my first home, and a lot of responsible borrowers, who are still responsible borrowers today, would never have purchased their home.

And so I look at that and I look at the present concern that we are having with Federal regulators considering setting a downpayment standard of 20 percent across the board, which the Center for Responsible Lending shows that such a role could push 60 percent of all creditworthy borrowers out of the market and disproportionately affect African American and Hispanic families who can be very responsible borrowers, but not if you insist on 20 percent down, especially in a housing market in Northern New Jersey, for example. It would just be, I think—a combination of eliminating Fannie and Freddie and having that would just make it an impossibility at the end of the day.

Ms. SALOWE-KAYE. Yes. I just—I want to make sure that we leave people with the knowledge that there are lenders in New Jersey who are making first-time mortgages to homeowners at 30-year fixed rates with only 3 or 5 percent down with proper counseling, and they are actually holding those mortgages in portfolio in order to get home buyers to get those first houses. There are not a lot of banks, but they certainly—we have enough of that product for our clients, but that does not diminish the need for what Alan was saying. So I want folks to know that there are those mortgages that are long-term, 30-year fixed rates, no points, no private mortgage insurance, that somebody can come into a HUD counseling agency and get information about that are 3 percent.

Senator MENENDEZ. And I think the Professor's remarks are that without a Fannie or Freddie, you would not have that at scale, to the scale that exists——

Ms. SALOWE-KAYE. Right. That is a problem.

Senator MENENDEZ. Well, my thanks to all of you for some very, very worthwhile and helpful insights. We will share this with the rest of the Committee.

Let me bring the hearing to a close. I want to thank all of the witnesses for their written and oral testimony, which will continue to be part of the Congressional record.

I want to thank the Black United Fund Health and Human Services for so generously hosting this hearing, and particularly its President and CEO Sondra Clark for hosting us. We appreciate it.

It seems to me that after hearing the testimony, it should be clear that there is a great deal the Government can do beyond what we are—where we are at to help foreclosures by keeping people in their homes with mortgage modifications, refinancing, by reducing the huge numbers of foreclosed property for sale that are reducing home values, and by dealing effectively with restoring vacant homes that are blighting neighborhoods. If we take those steps, which I look forward to pushing in the Senate, we can make for a much better day in America.

Thank you all for your testimony. The record will remain open for 1 day so that any Members who read it may, in fact, have—or, actually, maybe until next week, until next Wednesday, so that any Member who reads the testimony may have any questions. If you do get a question from a colleague, please respond to it as quickly as possible.

And with that, this hearing is adjourned.

[Applause.]

[Whereupon, at 12:31 p.m., the hearing was adjourned.]

[Prepared statements supplied for the record follow:]

PREPARED STATEMENT OF JERRY GREEN

ASSEMBLYMAN AND SPEAKER PRO TEMPORE
NEW JERSEY GENERAL ASSEMBLY

FEBRUARY 10, 2012

Good Morning, my name is Assemblyman Jerry Green, Speaker Pro Tempore (22nd District). We are all too well aware of the impact that the mortgage foreclosure crisis had on families around the country and here at home. As Chairman of Housing and Local Government, I have been on the forefront of New Jersey's housing crisis looking for solutions that address the housing issues faced by the people of our State.

While measures have been put in place over the last few years by the legislature to help families struggling to pay their mortgages keep their homes, the current economic climate is making it almost impossible and is forcing many families to default on their mortgages. We reportedly have more than 100,000 homeowners currently dealing with foreclosures in New Jersey. These families, despite their financial struggles, still need a place to live.

The crisis not only affects families, but entire communities. As these homes are foreclosed, they become nuisances for residents, municipalities and law enforcement.

Abandoned properties are a major problem, particularly in our urban communities. More than unsightly, they attract trespassers and squatters and serve as havens for drug use and sales, prostitution, and other criminal activity. Adding insult to injury, as they erode from neglect, they drag down the property values of other homes in the neighborhood.

I am in the beginning stages of establishing open communication with the Administration via legislation that will establish the "NJ Foreclosure Relief Corporation". This bill provides a practical solution for residents who have limited financial means and are in need of affordable housing, and for communities that are dealing with the blight, reduced property values and illegal activity that is synonymous with vacant properties.

Interestingly, the current economic climate, despite the hardships it has created, also presents our State with a unique opportunity to help. This bill will take advantage of the excess of vacant foreclosed residential properties and historically low interest rates in order to address one of the most pervasive problems New Jersey faces, the creation and preservation of housing for individuals and families of limited means.

PREPARED STATEMENT OF SHARON ROBINSON-BRIGGS

MAYOR, PLAINFIELD, NEW JERSEY

FEBRUARY 10, 2012

1. Housing Profile

- Plainfield is predominantly an owner occupied city with:
  - 43 percent of the owner occupied home values ranging from $300K to $499,999.
  - 32 percent the owner occupied homes purchased or refinanced between 2005 and later.
  - 26 percent of the owner occupied homes purchased or refinanced between 2000 and 2004
  - 46 percent of the owner occupied homes paying at least 35 percent of their monthly income toward housing costs.
- Housing Market
  - Number of foreclosures 125 (source is Trulia) 604 (RealtyTrac—includes notices of default, frclsr action and bank repossessed)
  - Median home value $305,700 (2010 U.S. Census).
  - Recent (wow) sales price increased by 9 percent (Trulia)
- Demographics
  - 50 percent Black and 40 percent of Hispanic ethnicity (includes black and white populations).
  - Median income: $52,056

2. Foreclosure impacts (Center for Responsible Lending, 11.11 Report)

People:

1. African Americans and Latinos have a
   - higher percentage of higher-rate loans
   - likely to have 'risky' loans
   - almost twice as likely to lose home through foreclosure than whites.
2. Studies indicate that the foreclosures affect:
   - physical health of families
   - creates insecurity in children, affecting
     - behavior, cognitive development, academic performance and more.
   - Family's financial well-being
     - Inability to 'tap' equity for new business
     - Pay for higher education
     - Retirement
     - Removes cushion for unexpected hardships, including
       - Loss of job, divorce, medical expenses
     - Removes family's main ability to transfer wealth to next generation.

Community:

When inadequately secured and maintained, foreclosed properties can lead to increased crime, pest infestations, disorder, and violence. Municipalities impacted by foreclosures face a troublesome combination of decreasing property tax revenues combined with increasing costs of responding to foreclosure-related problems.

1. Costs to neighborhood and taxpayers
   - Abandoned properties impact home values and weaken future home buyer sales.
   - Abandoned properties create opportunities for crime.
2. Study indicates that an average of $5,400.00 is spent by a local government to 'maintain' an abandoned foreclosed property in code compliance. (Chicago Foreclosures, Agar and Duda 2005)

The Remedy(ies)

- Housing Mortgage Data Act (HMDA) data indicates that more than 20 percent of mortgage holders in the United States owe more on their loan than their home is worth.
- Between predatory lending practices, the packaging and sale of questionable mortgages by Wall Street and the loss of home value, the most effective tool to relieve distressed mortgages and prevent foreclosure is to forgive some mortgage debt owed by struggling borrowers through "principal reduction."
- the recent foreclosure settlement between banks, States and the Federal Government would require the banks to pay $25 billion to participating States as a result of their failure and omissions to execute foreclosures properly.
- this agreement has far-reaching potential, because it attacks the fundamental engine that defies an abatement to the foreclosure crisis: exaggerated home values, beyond the amount of the loan.
- A reduction in principle translates to a reduction in monthly mortgage payments, making the mortgage affordable and preventing a foreclosure. It also has the potential to
  - Re-adjusts the housing market, potentially increasing the volume of housing sales and their sales price.

PREPARED STATEMENT OF KRISHNA GARLIC

CHIEF EXECUTIVE OFFICER, BRAND NEW DAY

FEBRUARY 10, 2012

Good afternoon,

It is with mixed emotions that I stand here to address you today to discuss the continued foreclosure crisis in our State. I am grateful that the Senator has made the venue available to call attention to the unfortunate situation that families are still losing their homes and many are sitting in limbo for years not knowing their fate.

Take for example, Regina, who came to Brand New Day early 2010 for help with her mortgage. She had heard about the HAMP program and wanted to see if she qualified. Her mortgage was with one of the larger banking institutions. Her mortgage payment was $1,200 a month and she was current in her payment until she lost her job unexpectedly. She was unemployed for 3 months before finding employment at significantly less than her previous job. BND worked with her to submit her modification request. After 90 days she was approved for a trial modification and the next 120 days were spent resubmitting documents, numerous phone calls and lots of tears as she waited for a permanent modification. Six months of waiting to find out the fate of her home ownership status and the memories of sacrifices she and her husband had made to purchase a home for their family were all flooding her with emotions. Thoughts of where she and her family would live if her loan was not approved; where would her children go to school, who would they play with, what neighborhood would feel safe to raise her children. After all, she and her husband had chosen this house, this neighborhood, and these neighbors. Another 30 days went by before she was scheduled to meet with her counselor at BND; it has now been over 8 months and still no resolution. She was saddened to hear during her appointment that her request had been denied. The counselor advised her not to give up because there were other programs that existed in New Jersey. The State's mediation program would give her an opportunity to speak directly to the bank and make her case. Together with her counselor, the mediation application was prepared and submitted. More waiting. Regina's mediation date was scheduled for 2 months out but at least she could sleep sound that the Sheriff would not arrive at the door to remove her family while waiting for her day at mediation! A week before the mediation date BND worked with Regina to update all of her paperwork and send it to the bank in preparation for the mediation process. Regina found herself frustrated and confused when the lender's attorney reported to mediation unprepared and requesting that the process be continued. On many occasions cases at mediation are continued two and three times, leaving homeowners in their houses but uneasy, insecure and full of anxiety. In addition, while decisions are prolonged, fees and interests continue to accrue making negotiations with the lender even more difficult. It is our recommendation that fees and interest be suspended during the foreclosure modification process. In addition, the process would be simplified and more effective if counselors had direct access to the person who has the power to negotiate and make the decision regarding the modification.

Regina finally decided after an unsuccessful mediation process that she would pursue a short sale and put her house on the market. At this point she felt hopeless and believed this was her only option. The home stayed on the market for over 8 months with no offer. There were so many homes on the market at that time and in her neighborhood that demand was extremely low. She finally got an offer at much less than what she had hoped. In fact the short sale offer was $70,000 less than what she owed to the bank. The offer was submitted to the bank and Regina found herself yet again playing the waiting game. She waited 3 months for an answer on the short sale before deciding to simply give up and move on. The housing counselor at BND told Regina about "cash for keys" where the bank would offer Regina cash to move out. Regina was desperate and she and her counselor made arrangements for the exchange. Unfortunately, the cash arrived many months after she had moved to her new home and therefore wasn't able to use it to help with relocation expenses. Banks should be required to give the cash within 30 days of the homeowner vacating the property.

Regina and her family are now renting an apartment in another town and community. The children are now attending a new school and had to make new friends. There is a greater distance between where she lives and where she works. The family would have been better served if they could have remained in the home as tenants. Banks should be encouraged to allow homeowners to lease back the properties after foreclosure so they can maintain stability for their family and avoid vacancy in our neighborhoods.

In closing, Regina's story can be multiplied by the thousands across the State and millions across the country. Many of the current Federal and State programs could be more useful if the guidelines were less restrictive. There are so many people that need help and their situations are each different and unique however numerous work hours are spent trying to determine what programs a person may qualify for and in many cases trying to qualify the unqualifiable. In addition, our counselors are an invaluable part of the process in aiding a family from their first late payment through resolution which could be a loan modification or transitioning into a new living situation. Funding for housing counseling has been significantly cut in State and Federal budgets and as demand continues and in many cases increases, we need dollars to pay salaries and related cost. Banks should be responsible to assist with the cost of healing our communities by paying fees for foreclosure counseling. There has been a lot of discussion across the State and country regarding a fee agreement however it has not manifested in large scale corporate accountability that reaches the local nonprofits.

I want to thank you for your attention to this important matter and ask that you continue to have open dialogue with counseling agencies to strategize solutions that help families like Regina's maintain the American dream.

PREPARED STATEMENT OF WAYNE T. MEYER

PRESIDENT, NEW JERSEY COMMUNITY CAPITAL

FEBRUARY 10, 2012

Senator Menendez and Members of the Subcommittee, thank you for this opportunity to speak with you today about New Jersey Community Capital (NJCC) and the role we play in saving New Jersey's neighborhoods from foreclosures.

My name is Wayne Meyer. I am President of New Jersey Community Capital, a nonprofit Community Development Financial Institution or CDFI. New Jersey Community Capital is the only CDFI headquartered in New Jersey which serves the entire State. Being a State-wide organization, we gain valuable insights into the difficulties and challenges experienced by our borrowers, mostly nonprofit community development corporations (CDCs). Through our innovative lending strategies, we are able to bolster the important work of these organizations, which are trying to save and stabilize neighborhoods ravaged by the continuing foreclosure and credit crises. Low-income communities throughout the State are in great peril and other, seemingly stable, low-to-moderate income communities are also on the precipice of rapid decline. However, CDCs alone will not save our neighborhoods and communities. This can only be done through comprehensive, innovative and integrative initiatives which require collaboration from every sector—Government, private, philanthropic, nonprofit and civil.

The Problem

The foreclosure crisis is changing the landscape of many New Jersey communities. Tens of thousands of foreclosed properties sit vacant, creating health and safety risks for these neighborhoods, of no use to the countless New Jerseyans seeking homes they can afford. Similarly, hundreds of thousands of homeowners are underwater and drowning fast with mortgages greater than the values of their homes. And with foreclosure filings continuing to increase, this crisis has yet to run its course.

Our Solutions

We appreciate Senator Menendez' proposed Shared Appreciation Mortgage Modification Act and we support the Senator's advocacy for experimenting with different approaches to disposing of foreclosed properties.

The scale of the foreclosure problem is so large, however, that we believe that additional strategies need to be part of the solution. In the interest of time, allow me to highlight some of the most promising and effective programs we have designed to date, which we feel are key to saving our neighborhoods from foreclosures.

The CAPC Model

NJCC has a proven model that we believe can be used in regions throughout the country. This model does not require public subsidy. We have developed a bulk purchase strategy in which we purchase, rehabilitate, and return foreclosed homes to productive and equitable reuse while strengthening and revitalizing the surrounding communities.

NJCC is employing this proven model through its subsidiary, the Community Asset Preservation Corporation (CAPC). CAPC is a statewide nonprofit real estate organization that acquires nonperforming residential mortgages and real-estate owned (REO) properties in targeted New Jersey communities through discounted bulk purchase arrangements. CAPC then returns these properties to productive use through a combination of strategies.

CAPC first tested its model in 2008 with an innovative initiative called Operation Neighborhood Recovery (ONR). As part of ONR, CAPC worked with a partnering CDC to acquire a pool of 47 nonperforming mortgages, primarily located in distressed northern New Jersey neighborhoods, at a deep discount. The first transaction of this kind in the Nation, ONR has successfully maintained these properties while developing mixed-market disposition strategies that support community stabilization goals. Since acquisition, the partner organizations have cleared title to 44 of the properties and conveyed over 23 of the properties to community developers for return to productive use. While the financial success of this model was built on efficiencies of scale and internal cross-subsidization, the goal of neighborhood stabilization was achieved through strong partnerships with local CDCs who were willing to purchase and rehabilitate ONR properties located within the communities they serve.

In 2010, CAPC merged with NJCC, which was the lead funder of ONR. As a wholly owned subsidiary of NJCC, CAPC benefits from NJCC's statewide reach, robust balance sheet, and existing relationships with many public, private, and nonprofit organizations. Now a statewide organization, CAPC continues to pursue a mixed-market approach to the acquisition and disposition of nonperforming mortgage and REO properties. This approach relies less on public subsidy and more on internal subsidies and efficiencies of scale to create affordable housing. Pivotal to this approach is NJCC/CAPC's ability to provide key real estate services that are crucial to this model. These services include realistic transaction pricing based on local market knowledge; experience structuring and completing bulk purchases; demonstrated property maintenance capacity; real estate brokerage capabilities; existing and varied partnerships that support and encourage joint ventures; and flexible financing through NJCC, for such crucial needs as predevelopment loans and lines of credit.

Since inception, CAPC has acquired properties through four bulk transactions and other acquisition strategies. CAPC continues to work with local CDCs to convey these properties and has also begun to directly secure or rehabilitate homes.

The goal of CAPC is to successfully intervene in the reclamation and recovery of 500–750 residential units over the next 5 years, leveraging over $40 million in total development costs by acquiring pools of nonperforming residential mortgage notes or foreclosed bank-owned residential properties. The elements of CAPC's approach include bulk purchases; a value assessment model based on costs and likely sales of each property (exit strategy); proactive asset management; nontraditional financing strategies; and a mixed market disposition strategy built upon various exit options.

The specific goals of the CAPC are to:

- Rapidly and at a meaningful scale acquire property that is at some point along the foreclosure track
- Preserve the assets and financial integrity of at-risk resident homeowners
- Maintain properties to preserve their value and minimize neighborhood harm
- Re-convey property to appropriate agents to be put back into productive use in an equitable manner
- Provide capacity building assistance to partner community development organizations

The elements of the CAPC model enable thoughtful and strategic intervention in ravaged neighborhoods. By critically analyzing the housing stock and foreclosure data for targeted communities, CAPC is able to identify properties which—once rehabilitated—will have an immediate impact on the local real estate market and a stabilizing effect for that particular block. CAPC is able to do this thanks to its ground-up valuation methods and its collaboration with local CDCs, which have an intimate knowledge of the area and its residents. By developing and furthering relationships with NJCC's clients, CAPC is able to help these clients conceptualize and actualize proficient redevelopment projects with lasting effects.

The CAPC disposition model pools REO assets, allowing nonprofits like NJCC and CAPC to enter into joint ventures with institutions such as the FHFA and the Enterprises to decide how best to manage and sell these assets. This effort can be augmented by leveraging private sector capital, to allow for bulk acquisition of REO assets from banking institutions and other private sellers.

It is important to note that this model does not rely on public subsidy. The model relies on discount prices for the bulk purchase of REO properties, due to economies of scale that result from partnerships. Prices would be set by the market with no further discount required. In this model, a portion of the properties would include properties unlikely to sell for a profit as well as other properties that may sell at a higher price, perhaps at market rate. The economies of scale, combined with the model's mixed-market disposition exit strategy, allow for cross-subsidization among properties in a bulk purchase portfolio, allowing some properties to be sold or rented as market-rate properties and others as discounted, affordable housing. This also provides cash to allow debt to be drawn down earlier, which helps ensure the model's financial sustainability.

The demand-side valuation model is driven by the exit strategy, a deep understanding of local markets and a close working relationship with other mission-based organizations. Through this model, CAPC will group properties by key indicators such as unit type, lender, and location, among other characteristics, and work with its local partners to assist in determining the most viable disposition and exit strategy for each property. No less than two exit options will be selected for each property, including: rehabilitation and conversion to affordable rental; rehabilitation and sale or lease-to-sale; sale of property to nonprofit CDCs; sale of property to select for-profit, mission-based affordable housing developers; sale of property directly into the market (select private investors); demolition of property; and conveyance of property to land banking.

Expanding the Model Through the Neighborhood Prosperity Fund

As an experienced CDFI and active lender for community development projects, NJCC has witnessed the increasing shortage of accessible, flexible capital to help meaningfully preserve and revitalize New Jersey's neighborhoods. Insufficient liquidity and capital are tremendous impediments to achieving neighborhood stability and change. The foreclosure and credit crises have placed even seemingly stable communities on the precipice of rapid decline. However, NJCC believes those impediments can be resolved through targeted and strategic investments in communities.

The development of the Neighborhood Prosperity Fund (NPF) by NJCC allows us to expand the scale of our interventions by offering a dedicated, durable, and permanent source of lending capital for:

1) acquisition and rehabilitation of foreclosed/abandoned properties, including the bulk purchase of REO properties at discounted prices;
2) medium-term financing for the lease or lease-purchase of completed units that currently cannot be sold to low/moderate income households.

The NPF provides financing for high-impact community developers to invest in at-risk neighborhoods. These funds are recycled to continually acquire, renovate, and place troubled properties back on the market. The NPF provides flexible forms of capital through lines of credit to community developers to acquire, renovate, and return to equitable reuse houses in at-risk low- and moderate-income neighborhoods. These dynamics are critical to the sustenance of communities, as they become less reliant on tenuous public subsidy, even as NPF investments generate both public and private funds that far exceed their initial value.

Besides the severe shortage of mortgage and project financing for community housing developers, many families lack the credit or savings necessary to purchase a home in today's lending environment. This creates a large backlog of homes on the market and increases the likelihood that sponsors of Neighborhood Stabilization Program (NSP) projects will be holding for-sale properties in their inventory far longer than anticipated. This necessitates the provision of flexible, affordable mini-permanent financing options for developers, which are not readily available in the current environment. The NPF will enable these community builders to tackle this problem of market absorption through medium-term financing for the lease or lease-purchase of the vacant and foreclosed structures they have placed back into equitable reuse in neighborhoods where home ownership is not currently a viable disposition strategy.

Even prior to the current financial crisis, mainstream financial institutions were limiting the financing they provided to CDCs and other nonprofit developers. Larger regional and national banks have not had an appetite for the smaller transactions undertaken by CDC real estate developers, while local financial institutions have often lacked an understanding of the community development finance market. The advent of the economic crisis further limited the number of mainstream lenders willing to tackle this work, leaving CDFIs as the primary source of capital for nonprofit and mission-driven developers working in New Jersey's at-risk communities. In fact, NJCC has often been the primary source of capital for community development projects, particularly those that are affordable housing and NSP-related.

NJCC continues to innovate, adapting our neighborhood stabilization initiatives to meet the current needs of distressed neighborhoods. Our responses are designed to bring meaningful change to these localities on a scale large enough to restore normally functioning markets. We still believe that the strategic acquisition and redevelopment of pivotal properties is critical to preserving and revitalizing vulnerable urban neighborhoods. Accomplishing this, however, requires both financial and real estate capacity at a greater scale that what has existed to date. It also requires a major shift in thinking and behavior by stakeholders at all levels.

The NPF funds provide financing to high-impact community developers that demonstrate the financial and real estate capacity to implement neighborhood planning and stabilization strategies. NJCC awards the funds to projects that are tied in with a comprehensive, strategic plan for long-term neighborhoods stability.

It provides flexible forms of capital through lines of credit to these nonprofit and mission-driven developers to acquire and build/renovate homes in low- and moderate-income neighborhoods. The fund leverages both current and future Federal neighborhood stabilization funding, providing financing that is flexible, cost effective and of the magnitude and scale necessary to assist in the transformation of neighborhoods. The NPF funds are recycled to maintain the continual acquisition, renovation, and disposition of troubled properties.

The NPF is capable of bringing about transformative neighborhood change and is critical to reducing the complexity, delay, and cost associated with traditional acquisition, development and construction lending, and to leveraging public funds. The NPF serves as an important model for a scaled response to the foreclosure crisis and beyond and as an effective tool for the revitalization of distressed communities that are suffering from vacant and abandoned properties.

Helping Keep Families Out of Foreclosure-Creating a Mortgage Resolution Fund

NJCC is working to create a mortgage resolution fund as a powerful vehicle for foreclosure intervention and neighborhood stabilization. This mortgage resolution fund would use a bulk purchase strategy to acquire pools of delinquent mortgages on owner-occupied properties in high-impact areas, and will subsequently evaluate each mortgage and corresponding property to create an individualized action plan for each homeowner. These plans fall into three categories: 1) the affordable restructuring of the mortgages to preserve home ownership; 2) rent-to-purchase options through a temporary third-party owner; or 3) transitional support to new housing for owners who cannot sustain their tenure in the foreseeable future.

It is our strong belief that this mortgage resolution fund would be different from other public or private programs currently operating in the market. It would be geographically targeted areas for bulk mortgage note purchases to maximize its impact on neighborhood stabilization. The program would be consumer-centered and provide direct services to the homeowner in a holistic manner. It would offer a permanent solution for the homeowner and the neighborhoods by permanently modifying and reducing the loan principal upon successful completion of a trial modification period. Since it would not be a subsidy program, we believe it would play a critical role, given the shrinking public sector resources available for this work.

We estimate that we would need a $100 million over 6 years in order to create a fund capable of acquiring 2,000 owner-occupied properties. While such a target would significantly reduce the number of families struggling with foreclosure, it also shows how difficult and time- and labor-intensive our combined efforts will need to be to help solve this crisis.

Conclusion

Once again, I would like to thank the Chairman and the Members of the Subcommittee for their time and attention to this critical issue of saving our neighborhoods from the detrimental impact of foreclosures. I once again would like to acknowledge Senator Menendez' leadership in helping residents of our at-risk communities all across our State.

PREPARED STATEMENT OF PHYLLIS SALOWE-KAYE

EXECUTIVE DIRECTOR, NEW JERSEY CITIZEN ACTION, AND FORMER MEMBER, CONSUMER ADVISORY COUNCIL, FEDERAL RESERVE BOARD OF GOVERNORS

FEBRUARY 10, 2012

Good Morning. I'd like to thank Senator Menendez and the Committee Members for holding these hearings today in Plainfield, New Jersey. My name is Phyllis Salowe-Kaye. I've been the Executive Director of New Jersey Citizen Action (NJCA) for the past twenty 5 years. I am also a former member of the Consumer Advisory Council, constituted by the Federal Reserve Board of Governors. As the State's largest independent citizen watchdog coalition, New Jersey Citizen Action works to protect and expand the rights of individuals and families and to ensure that the needs of people—rather than the interests of those with power and money—are served.

Through education, research, organizing and outreach our campaigns promote economic, social, racial, and political justice.

As the State's largest HUD-certified Housing and Foreclosure Counseling agency and a leader in innovative projects and programs, I appear before you to offer remarks about how we can save our neighborhoods from foreclosure.

Keeping families in their homes when reasonable loan modifications are possible, and the reform of the broken loan servicing industry should be a priority for Congress. The Center for Responsible Lending's *Lost Ground, 2011 Report* finds that 2.7 million people who received mortgages between 2004 and 2008 have already lost their homes to foreclosure and an additional 3.6 million households are still at immediate, serious risk of doing so. According to Amherst Securities, we may have a stunning 10 million more foreclosures ahead of us.

Many of these foreclosures can be prevented if policymakers stop relying on voluntary efforts and instead *require* servicers to make reasonable modifications on mortgages that have a good chance of success.

Policymakers should apply strong, mandatory standards for loan modifications. While States can require loan servicers to take specific steps to avert foreclosures prior to foreclosure ("loss mitigation"), there is an urgent need to establish national loss mitigation standards. These standards should target appropriate levels of debt (*i.e.,* the debt-to-income-ratio) for eligible homeowners and bar unreasonable fees. Some effective State-loss mitigation efforts and future settlements and consent orders between banks and regulators offer examples of standards that could apply to servicing nationally.

Additionally, eliminating the barriers to homeowner refinancing and streamlining the refinancing process as outlined in S–170, the "Helping Responsible Homeowners Act of 2011" (Boxer/Isakson), would allow homeowners to take advantage of our historically low interest rates and prevent banks from refusing to refinance underwater homeowners. This legislation must be supported and passed.

There must also be an end to the loan servicing abuses and poor business practices that contribute to unnecessary foreclosures. Federal regulators should prohibit common servicer abuses, including misapplied payments, illegitimate fees, failure to pay escrowed taxes and insurance, force-placing overpriced insurance, obstructing refinances and modifications and improperly pursing foreclosures when at the same time working with borrowers on loan modifications. New York's recent laws and regulations provide a useful framework that should be examined.

Lowering mortgage balances (principal reductions) is an essential tool for stopping the foreclosure epidemic. Housing experts are reaching a consensus that we need mandated principal reductions for many underwater borrowers at imminent risk of foreclosure to stabilize the housing market. Modifications that reduce principal and are Net Present Value (NPV) positive to investors would enhance income streams for investors and servicers, while keeping families in their homes and prevent further foreclosures from flooding an already saturated housing market. Given the high share of loans held by Fannie Mae and Freddie Mac, the Federal Housing Agency (FHA) must permit meaningful principal reductions on loans that are at imminent risk of foreclosure.

Shared appreciation mortgages are an excellent tool to redirect principles that will allow mortgages to become affordable and sustainable. Ocwen Financial Corporation, one of the country's largest independent mortgage servicers, has adopted shared appreciation (equity) mortgages as a creative way to do principal reductions for homeowners for use in its Loan Modification Program. A shared appreciation mortgage is a mortgage in which the homeowner agrees to pay a stated percentage of the property appreciation to the lender at the time the house is sold. In return, the lender agrees to reduce the principal and change the interest rate of the loan to one that is below the prevailing market rate.

Ocwen currently has about 16,000 loans in New Jersey. Eight thousand are currently in foreclosure and the bank is aggressively working with these homeowners to modify the loans and reduce the principals. Ocwen is a company that is doing principal reductions throughout the country and has found a way to make a profit. The other large banks and servicers paused to foreclose on millions of homeowners, should be required to modify loans and write down principals in a similar manner. No more than 5 percent of the security agreements (PSA's) have language that limits or prohibits principal reductions. The others are silent except to say that whatever solution is taken should benefit investors. This benefit to investors can be calculated by using the NPV (net present value), which is what Ocwen does. Ocwen has made use of principal reductions on a large scale. It is essential to require the U.S. Treasury, SEC, OCC or whichever the correct regulator is to issue guidance dispelling the notion that the PSA precludes principal reduction except where explicitly stated.

It is also important to set a NPV calculation standard similar to Ocwen's (though that might be proprietary) so that everyone is "singing from the same score." If that seems to intrude on the "rights" of lenders or be too hard to pass, establish the standard anyway and give borrowers the right to demand a re-evaluation using that NPV. Senator Menendez has proposed a bill that would establish a pilot program at Fannie Mae, Freddie Mac and FHA to offer shared appreciation mortgage modifications to underwater or delinquent homeowners. The "Shared Mortgage Appreciation Modification Act of 2012" must be supported and passed quickly to help homeowners remain in their homes. It should be offered only in instances of foreclosure prevention because in other contexts it can become another exotic tool that can harm homeowners.

To get banks to agree to reduce the principal they would be entitled to a fixed percentage of the value when prices finally increase and the home is sold. But a cap should be established so that the servicers can't recoup more than they write down plus some foregone interest.

The Federal Government has established numerous programs to stop foreclosures and save our neighborhoods. Some work, others don't. Just last week, President Obama outlined a series of proposals to help homeowners, including a plan requiring Congressional support that would enable responsible homeowners who are current on their mortgages to refinance into lower rate loans, even though their homes are underwater. We strongly urge Congress to support this plan so that responsible homeowners can take advantage of currently low interest rates. This will enable them to put more money in their pockets and make their homes more affordable.

The Treasury's Hardest Hit Fund has funded some excellent State and local programs. New Jersey's Homekeeper Program, which provides 2 years of funding for unemployed or underemployed homeowners, should be expanded and heavily marketed. Congress should support nascent large scale models like the Mortgage Resolution Fund (MRF), a public, private, nonprofit partnership, by allowing the organizations themselves to apply for Hardest Hit Funds or other TARP type dollars, instead of just permitting the HFA's to access these funds. Also, as long as the Hardest Hit Funds are being recycled as in the Mortgage Resolution Fund, Congress should not sunset their use. Additionally, incentives should be set for servicers and banks to ally themselves with MRF type nonprofits (*e.g.,* MRF and NCLR) and the same should be provided in the bulk REO programs being initiated.

Finally, Congress should fund more HUD-certified housing counseling and legal aid assistance for homeowners at risk of foreclosure. Studies have shown that homeowners who receive counseling are less likely to default on their loans. Every successful loan workout that prevents an unnecessary foreclosure helps homeowners, their communities and our economy as a whole.

PREPARED STATEMENT OF ALAN MALLACH

NON-RESIDENT SENIOR FELLOW, BROOKINGS INSTITUTION

FEBRUARY 10, 2012

Chairman Menendez, honorable Members of the Subcommittee:

I am pleased to have this opportunity to testify before you on the effects of foreclosures on neighborhoods in New Jersey and elsewhere in the United States, and to suggest Federal and State legislative efforts that should be pursued to help mitigate the foreclosure crisis and stabilize our neighborhoods. You are hearing today from a number of individuals who are pursuing important strategies to address this problem. I will try to add a broad perspective on this issue, based on my work as researcher and advocate in New Jersey and elsewhere over the past many years.

Just as there is no one reason for the foreclosure crisis, there is no one way in which that crisis affects neighborhoods, and no one strategy that can be put in place to fix the problem. Furthermore, we should not think of mitigating the foreclosure crisis, which still rages, and stabilizing neighborhoods as separate matters: the two are totally interwoven with one another. This is particularly true in urban neighborhoods that are already hard-pressed by unemployment and other ills.

As borrowers default, and foreclosure proceedings begin, maintenance declines. Many borrowers leave their homes, or walk away from investment properties. In New Jersey, where foreclosures can take 3 years or more, houses and small apartment buildings can sit empty for years before title passes to the lender, deteriorating and blighting the neighborhood. As vacant and abandoned properties increase, the neighborhood's quality of life deteriorates, and its attractiveness to home buyers declines. Meanwhile, with more REO properties coming on the market, and fewer home buyers being able to qualify for mortgages, the market further deteriorates; abandonment grows, crime may increase, property values decline, and increasingly the only buyers are low-end and speculative investors. Breaking this vicious cycle demands action at all stages in the cycle.

We should focus on four distinct areas—not as separate actions or strategies but in an integrated, comprehensive way. While many areas I will touch on are traditionally matters of State law, the need for consistent, overarching, national ground rules in this area is compelling and a matter of urgent public interest. As Congress showed when it enacted the Protecting Tenants at Foreclosure Act in 2009, it is capable of acting to fill the gap between inadequate State laws and what needs to be done.

- **First, reduce the flow of homes into foreclosure.**

Until we significantly reduce the number of new foreclosures, and the number of REO properties, neighborhood stabilization will remain a moving target, constantly beyond our reach. For all of the many programs and initiatives of the past few years, that goal still appears far away. I believe the Federal Government needs to play a stronger, more constructive role than it has in the past. Convoluted programs that prolong the agony, short-term temporary assistance programs, and similar efforts may help some people, but too few, too slowly. A more aggressive, systematic approach is needed; the White Paper just issued by the Federal Reserve Board offers a number of useful suggestions that could be pursued in developing such an approach.

This is both an administrative and a legislative responsibility. Federal regulators should use both carrots and sticks to encourage greater principal reduction in mortgage modifications, facilitate short sales and deeds in lieu, to maximize alternatives to foreclosure. The Federal Government should provide additional support for foreclosure counseling, and provide direction to the States to follow best practices in designing and conducting mediation and other foreclosure intervention programs. The Administration could lead the way through its control over the GSEs as well as FHA, something which has yet to happen. Congress can play a valuable role by putting constructive pressure on the Administration to treat the GSEs and FHA not as burdens or no more than bottom-line entities, but as powerful tools that can be deployed to tackle the mortgage crisis; if existing statutes are an impediment, Congress should change the ground rules the FHFA uses to regulate the GSEs.

- **Second, keep people in their homes**

If the foreclosure process itself is the first step in neighborhood destabilization, the second is the extent to which it leads to houses becoming vacant, and particularly in urban neighborhoods, abandoned, a process that often results in houses being damaged beyond repair. Congress took an important step in this respect in 2009 when it enacted the Protecting Tenants at Foreclosure Act. That Act should be revisited, first, to expand tenant protection to reflect the protections afforded tenants under New Jersey law; and second, to find out whether it is indeed being followed, and if necessary—as I expect will turn out to be the case—put teeth in it to make sure. With respect to homeowners, the goal should be to make sure that a house that goes through foreclosure is empty for no longer than a house that is sold in the normal course of events. Fostering more short sales and deeds in lieu is an important step in that direction, but the next major step should be to protect homeowners in foreclosure by allowing responsible homeowners who have maintained their property in good condition during the foreclosure process to remain in their homes as tenants, paying a fair market rent, until or unless a new buyer wants to move into the house. This should be a no-brainer. It preserves families, helps stabilize neighborhoods, and preserves the value of the property better than if the property is vacated after the sheriff's sale. Representatives Grijalva and Kaptur introduced legislation that would achieve that goal, but it remains bottled up. It should be given a chance to work.

- **Third, ensure that properties are properly maintained both during and after foreclosure**

In New Jersey and many other States properties can sit vacant for years before lenders gain title through sheriff's sale. In 2010, the New Jersey Legislature passed a State law making lenders legally responsible for maintaining properties that become vacant after the initial foreclosure filing but before the sheriff's sale. I believe New Jersey is unique in terms of State law, although some cities, particularly in California, have passed local ordinances along similar lines. Congress should consider legislation that would establish such legal responsibility as a national mandate and strengthen the ability of local governments to enforce that responsibility.

The extent to which lenders simply walk away from low-value properties, particularly in distressed areas like Cleveland and Detroit, has been widely recognized. In other areas, they may not walk away, but may slow down the process to ration the flow of properties into REO status. Both of these practices harm the families involved, the neighborhoods and the housing market generally. Simply stated, lenders should not be allowed to initiate foreclosures unless they are prepared to see the process through in a timely fashion and take full responsibility for the property. If they are unwilling to do so, they should release the mortgage, or convey it to an entity that has the borrower's interest at heart. While individual States could enact such legislation, the likelihood of all 50 doing so is remote; this is another area where Federal legislation would be valuable.

- **Fourth, make sure that REO and other vacant properties are quickly put back to productive use**

While high-value REO properties in strong housing markets usually sell quickly, many REO properties elsewhere languish, some to be bought by low-end speculators, and others to remain vacant. Meanwhile, other properties in the same hard-hit neighborhoods are falling vacant for many other reasons. Making sure REO properties are restored to productive use not only requires that the lenders who control these properties are motivated to do so, but needs a pool of responsible, capable people ready to buy them. In some cases they could be home buyers, in other cases responsible investors, or contractors willing to put them back into shape, and in still others, nonprofit corporations and CDCs.

In addition, municipalities need stronger tools, such as the ability to create municipal land banks, to gain control of other vacant properties and put them back to use. Such legislation has been enacted in Michigan, Ohio and New York. In New Jersey, the Housing & Community Development Network has helped draft a bill that has just been introduced. The Federal Government should support such efforts, and ensure that Federal programs are designed to work in tandem with local land bank efforts.

Coupled with legislation to motivate lenders to complete foreclosures and put REO properties on the market, we need programs to make it easier and more financially feasible for people to buy properties, either to occupy as homeowners, to rent out, or to fix up and put back on the market in move-in condition. This demands two things.

First and foremost, we need a system that provides access to capital on reasonable terms for responsible individuals and businesses ready to acquire, occupy, rent out or fix up REO and other distressed property. In the short run, this should be clearly defined as part of the mission of the GSEs and FHA. In the long run, we need to get away from the rhetoric that has come to surround the question of the Nation's future mortgage finance system, and come up with a model for a mortgage system that appropriately balances risk management and public policy goals. If we are to continue to provide home ownership opportunities to hard-working Americans, Government will inevitably have to play an important and ongoing role.

Second, in weak market areas, where the cost of fixing up houses exceeds their market value, we need to look at incentives such as tax credits to motivate responsible landlords, developers and contractors to invest in those areas, to help those areas get back on their feet.

Finally, I'd like to come back to a point I made earlier. Yes, there are many dimensions to this problem which demand different strategies and programs, but they have to be connected, not handled—as is too often the case today—as separate, unrelated, activities. Moreover, many programs—housing programs as well as other public efforts—that we do not associate with foreclosure prevention or neighborhood stabilization affect the future of the same neighborhoods.

The Administration and Congress should take a close look at current Federal programs—in housing and elsewhere—and asking whether the way they are designed and their funds allocated works to sustain neighborhoods, or whether some programs are indifferent to, or in some cases, even inimical to the future of urban neighborhoods.

Communities need to be encouraged to develop comprehensive strategies, to get everyone involved around the table to work together, to make sure that foreclosure prevention, and keeping houses occupied and maintained, and restoring vacant houses to productive use are all part of a multifaceted effort to stabilize and reinvigorate our older neighborhoods, towns and cities. Both Federal and State governments should be their partners in that effort.